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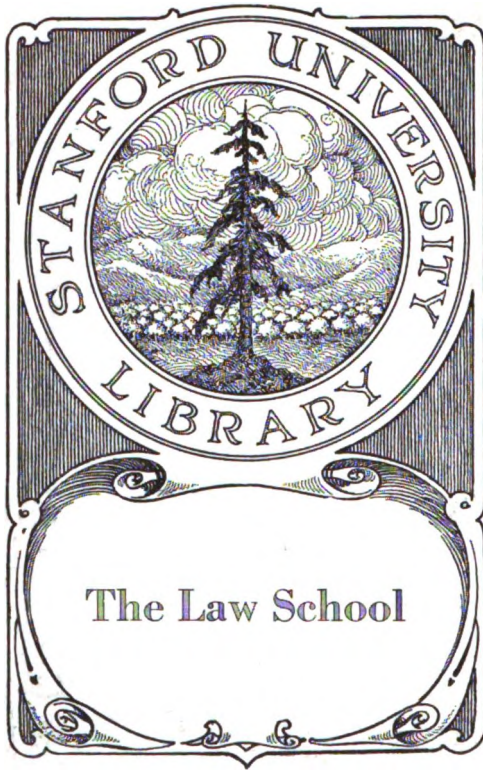
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George Washington
Washington

STATUTES
OF THE
PROVINCE OF ONTARIO

PASSED IN THE SESSION HELD IN THE
FORTY-FOURTH YEAR OF THE REIGN OF HER MAJESTY
QUEEN VICTORIA,

Being the Second Session of the Fourth Legislature of Ontario,

BEGUN AND HOLDEN AT TORONTO, ON THE THIRTEENTH DAY OF JANUARY, IN THE YEAR OF OUR
LORD ONE THOUSAND EIGHT HUNDRED AND EIGHTY-ONE.



HIS HONOUR
THE HONOURABLE JOHN BEVERLEY ROBINSON,
LIEUTENANT-GOVERNOR.

Toronto:
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PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.
1881.

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YARBU GORMAN



ANNO QUADRAGESIMO QUARTO.

VICTORIÆ REGINÆ

CHAPTER 1.

An Act for granting to Her Majesty certain sums of money to defray the expenses of Civil Government for the year one thousand eight hundred and eighty-one, and for other purposes therein mentioned.

[Assented to 4th March, 1881.]

MOST GRACIOUS SOVEREIGN :

WHEREAS it appears by Messages from His Honour the Preamble.
Honourable John Beverley Robinson, Lieutenant-Governor of Ontario, and the Estimates accompanying the same, that the sums hereinafter mentioned in the Schedule to this Act are required to defray certain expenses of the Civil Government of this Province, and of the public service thereof, and for other purposes, for the year one thousand eight hundred and eighty-one ; may it therefore please Your Majesty that it may be enacted, and it is hereby enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, as follows :

1. From and out of the Consolidated Revenue Fund of this Province, there shall and may be paid and applied a sum (not exceeding in the whole) of two millions three hundred and seventy-four thousand one hundred and sixteen dollars and seventy-three cents, for defraying the several charges and expenses of the Civil Government of this Province for the year one thousand eight hundred and eighty-one, as set forth in Schedule "A" to this Act ; and for the expenses of Legislation and

\$2,374,116 73
granted out of
the Consoli-
dated Revenue
Fund for cer-
tain purposes.

and salaries of the officers of the Government and Civil Service for the month of January, one thousand eight hundred and eighty-two, as set forth in Schedule "B" to this Act; and for an advance on account of Mercer Estate, as set forth in Schedule "C" to this Act.

Accounts to be
laid before the
Legislature.

2. Accounts in detail of all moneys received on account of this Province, and of all expenditures under Schedule "A" of this Act shall be laid before the Legislative Assembly at its next sitting.

Unexpended
moneys.

3. Any part of the money, under Schedule "A," appropriated by this Act out of the Consolidated Revenue, which may be unexpended on the thirty-first day of December one thousand eight hundred and eighty-one, shall not be expended thereafter, except in the payment of accounts and expenses incurred on or prior to the said day, and all balances remaining unexpended after the twentieth day of January next shall lapse and be written off.

Expenditure to
be accounted
for to Her
Majesty.

4. The due application of all moneys expended under this Act out of the Consolidated Revenue shall be accounted for to Her Majesty.

SCHEDULE "A."

SUMS granted to Her Majesty by this Act for the year one thousand eight hundred and eighty-one, and the purposes for which they are granted.

CIVIL GOVERNMENT.

To defray the expenses of the several Departments at Toronto.

Government House	\$5,580 00
Lieutenant-Governor's Office	3,430 00
Executive Council and Attorney-General's Office	14,790 00
Education Department	20,690 00
Crown Lands Department	44,750 00
Department of Public Works	19,094 00
Treasury Department	18,700 00
Department of Agriculture	1,400 00
Inspection of Public Institutions	7,550 00
Secretary and Registrar's Office	26,225 00
Department of Immigration	1,500 00
Miscellaneous	14,600 00
	<hr/>
	\$178,309 00
	LEGISLATION

LEGISLATION.

To defray expenses for Legislation \$108,900 00

ADMINISTRATION OF JUSTICE.

To defray expenses of:—

Court of Chancery	\$20,615 00
Court of Queen's Bench	9,620 00
Court of Common Pleas	5,660 00
Superior Judges and Court of Appeal	16,320 00
Practice and other Courts	4,900 00
Criminal Justice	154,000 00
Miscellaneous Justice	70,475 00
	<hr/> \$281,590 00

EDUCATION.

To defray expenses of:—

Public and Separate Schools	\$240,000 00
Inspection of Public and Separate Schools	31,045 00
Schools in New and Poor Townships	13,500 00
Collegiate Institutes and High Schools	84,500 00
Inspection of Collegiate and High Schools	7,600 00
Departmental Examinations	9,300 00
Training of Public School Teachers	10,350 00
Superannuated High and Public School Teachers	57,833 13
Normal and Model Schools, Toronto	22,650 00
Normal School, Ottawa	19,042 60
Educational Depository	9,155 00
Miscellaneous Expenses of Education	875 00
	<hr/> \$505,850 73

PUBLIC INSTITUTIONS—MAINTENANCE.

To defray expenses of:—

Asylum for the Insane, Toronto.	\$83,176 00
Asylum for the Insane, London.	103,548 00
Asylum for the Insane, Kingston.	54,834 00
Asylum for the Insane, Hamilton.	58,004 99
Asylum for the Insane, Orillia.	19,674 00
Provincial Reformatory, Penetanguishene.	30,435 54
Central Prison, Toronto.	68,470 00
Institution for the Deaf and Dumb, Belleville.	36,623 00
Institution for the Blind, Brantford.	30,797 00
School of Agriculture, Guelph.	20,930 00
School of Practical Science, Toronto.	5,400 00
Mercer Reformatory for Females, Toronto.	23,520 27
	<hr/> \$535,412 80

IMMIGRATION

IMMIGRATION.

To defray expenses of:—

Agencies in Europe.....	\$4,800 00
Agencies in Canada.....	3,400 00
Dominion Government for services by its Agents.	15,000 00
Carriage of Immigrants in Ontario, including Maintenance.....	8,000 00
Provisions for same, including Medical attendance.	9,000 00
Incidentals	1,000 00
	<hr/> \$41,200 00

AGRICULTURE, ARTS, LITERARY AND SCIENTIFIC INSTITUTIONS.

To defray expenses of a grant in aid of:—

Electoral Division Societies, 81 at \$700.....	\$56,700 00
Electoral Division Society, 1 at 550.....	550 00
Electoral Division Societies, 6 at 350.....	2,100 00
“ “ “ outlying Districts. ...	550 00
Fruit Growers' Association.....	1,800 00
Entomological Society.....	1,000 00
Dairymen's Associations.....	3,000 00
Agricultural Association.....	10,000 00
Poultry Associations.....	700 00
For sundry services in connection with Agriculture and Arts, such as investigation of diseases in animals and crops, and of ravages of insects; and for agricultural instruction, dairy products, and other charges not otherwise provided for	2,000 00

ARTS:

Mechanics' Institutes	25,000 00
Art Union, Toronto.....	500 00
School of Art and Design, Toronto	1,100 00
School of Art and Design, London.....	800 00

LITERARY:

Canadian Institute, Toronto	750 00
Institut Canadien, Ottawa	300 00
Athenæum, Ottawa.....	300 00
	<hr/> \$107,150 00

HOSPITALS AND CHARITIES.

To defray expenses of a grant in aid of:—

Hospitals and Institutions mentioned in Schedule A of Statute, 37 Vic., chap. 33.....	\$47,825 37
Institutions in Schedule B.....	18,026 31
Institutions in Schedule C.....	12,190 30
Registers and Forms for Charities.....	100 00
	<hr/> \$78,141 98

MISCELLANEOUS

MISCELLANEOUS EXPENDITURE.

To defray Miscellaneous Expenditure as follows:—

License Law	\$2,000 00
Collection of revenue for law stamps and licenses.	1,500 00
Marriage Licenses	400 00
Ontario Rifle Association	600 00
Insurance of Public Buildings and Furniture	1,000 00
Expenses of Elections	2,000 00
Expenses of Contested Elections	1,000 00
Revision Voters' Lists	1,000 00
Gratuities	10,250 00
Allowance to late Superintendent of Education ..	4,000 00
Brock's Monument	500 00
Allowance to Counties under provisions of 30 Vic. chapter 31	6,557 50
Grant to aid in establishing a market for Ontario manufactures and agricultural products in European and Foreign Countries	1,770 00
Aid to <i>Sanitary Journal</i>	500 00
Telephone Service	500 00
Expenses taking Insane People to Asylums, and Boys and Females to Reformatories	6,000 00
Expenses of Agricultural Commission	1,750 00
To defray the expenses of maintaining the rights of the Province to the territory recently awarded	10,000 00
Expenses <i>re</i> London University Examination and Gilchrist Scholarship	150 00
Expenses of preventing prize fight	566 23
	<hr/> \$52,043 73

PUBLIC BUILDINGS.

To defray expenses at the works at the Asylum for the Insané, Toronto	\$4,030 00
Asylum for the Insane, London	9,352 00
" " " Hamilton	8,100 00
" " " Kingston	15,600 00
" " Idiots, Orillia	1,269 00
Reformatory, Penetanguishene	22,400 00
Reformatory for Females, Toronto	4,300 00
Central Prison, Toronto	4,500 00
Deaf and Dumb Institute, Belleville	6,750 00
Blind Institute, Brantford	4,600 00
School of Agriculture, Guelph	24,750 00
Normal School and Education Office, Toronto	2,000 00
Normal School, Ottawa	7,000 00
School of Practical Science, Toronto	3,400 00
Osgoode Hall, Toronto	1,000 00

Government

Government-House, Toronto	\$4,000 00
Parliament Buildings	1,000 00
District of Algoma	900 00
Thunder Bay District.....	800 00
Nipissing District	200 00
Parry Sound District	3,650 00
Muskoka District.....	4,700 00
New Territory.....	3,000 00
	<hr/> \$137,241 00

PUBLIC WORKS.

Muskoka River and Lakes Works	\$2,100 00
Mary's and Fairy Lakes Works	550 00
Gull and Burnt Rivers.....	8,500 00
Scugog River Works.....	5,000 00
Portage du Fort Bridge	250 00
Surveys, Inspections and Arbitrations	5,000 00
Locks, Dams and Swing Bridges.....	3,000 00
Lock-masters' and Bridge-tenders' Salaries	3,200 00
Otonabee River Works.....	1,500 00
Bridge at Des Joachim's Rapids	4,000 00
	<hr/> \$33,100 00

COLONIZATION ROADS.

To defray expenses of Construction and Repairs	\$96,500 00
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CROWN LANDS EXPENDITURE.

To defray expenses on account of Crown Lands	\$75,000 00
--	-------------

REFUNDS.

To defray the expenses of :—

Education	\$1,000 00
Crown Lands	10,500 00
Municipalities' Fund.....	24,727 82
Land Improvement Fund.....	9,449 67
	<hr/> \$45,677 49

UNFORESEEN AND UNPROVIDED.

To meet unforeseen and unprovided	\$50,000 00
Total Estimate for 1881	<hr/> \$2,326,116 73

SCHEDULE

SCHEDULE "B."

SUM granted to Her Majesty by this Act for the year one thousand eight hundred and eighty-two, and the purposes for which it is granted.

To defray the expenses of Legislation and salaries of the officers of the Government and Civil Service for the month of January, 1882.....	\$30,000 00
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SCHEDULE "C."

SUM granted to Her Majesty by this Act for the year one thousand eight hundred and eighty-one, and the purpose for which it is granted.

Advance on account of Mercer Estate to meet expenditure on Reformatory beyond amount heretofore directed	18,000 00
Total.....	\$2,374,116 73

CHAPTER 2.

An Act to amend the Act respecting the sale and management of Timber on Public Lands.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Ontario, enacts as follows:—

1. Section six of chapter twenty-six of the Revised Statutes of Ontario, is hereby repealed, and the following enacted in lieu thereof;

R.S.O., c.26, s. 6, repealed, and new section substituted.

6. In case the council of any township organized as a separate municipality, or the council of any united townships, have passed or hereafter pass any by-law for preserving or selling the timber or trees on the Government road allowances within such townships or united townships, and included in any such license, the corporation of such township or united townships shall be entitled to be paid, out of the consolidated revenue fund of this Province, a sum equal to two per centum of the dues received by Her Majesty for or in respect of the timber or saw-logs which, during the existence of such by-law, were cut within the said township or united townships, under the authority

authority of such license; but no corporation shall be entitled to such per centage of the dues received for timber or saw-logs cut during the times or seasons when any timber or trees on any such road allowances were cut or removed, for which cutting or removal such corporation had, before the fifteenth day of February, one thousand eight hundred and seventy-one, obtained a verdict against any such licensee or nominee.

Sec. 8 repealed
and new
section substituted.

2. Section eight of said Act is hereby repealed, and the following substituted therefor:

8. All moneys to be paid, as aforesaid, to any municipal corporation shall be expended in the improvement of the highways situate within the township or within the senior or junior township in respect of which such moneys were paid.

Time from
which junior
townships en-
titled to per-
centage of
dues.

3. The percentage to which the junior township or townships of such united townships may be entitled, shall only be in respect of the dues received upon timber or trees which shall be cut after the thirtieth day of April, one thousand eight hundred and eighty-one.

CHAPTER 3.

An Act to amend the Ontario Drainage Act.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

R.S.O. c. 33,
s. 36 repealed.

1. The thirty-sixth section of chapter thirty-three, of the Revised Statutes of Ontario, entitled "An Act respecting the Expenditure of public money for Drainage Works," is hereby repealed, and the following substituted therefor:

Assessment a
first charge
on land.

The respective sums of money which, by the said assessment roll, are specified as the proportions or contributions payable in respect of the roads or several parcels or lots of land so drained, or improved by drainage, or by any works under the Act respecting the Public Works of Ontario, towards the total amount of the sums expended on and about such drainage or improvements as aforesaid, shall be charged on such several parcels or lots of land, and that in preference to and with priority over all incumbrances on such land, in manner following, that is to say, each several parcel or lot of land shall be charged with a payment to Her Majesty of a rent-charge after the rate of seven dollars and sixty cents per annum rent for every one hundred dollars charged on such several parcels or lots, or roads, and so in proportion for every less amount, to be payable for the term of twenty-two years, to be computed from the first

first day of January next before the date hereinafter fixed for making the first payment; the first of such payments to be made on the first day of January next after the day a copy of the assessment roll was deposited, in pursuance of section thirteen, with the clerk of the municipality which, or the inhabitants of which, applied for the drainage, such payment to be for the preceding year.

2. The fortieth section of the said Act is hereby repealed, and the following substituted therefor: Sec. 40 repealed.

If the assessment roll is not revised in time to place the instalment of rent-charge payable for the current year, or for any previous year, in the collector's roll, or if for any cause any such instalment or instalments is or have been left off the roll for the proper year or years, then such instalment or instalments, with five per centum per annum added thereto, shall, in addition to the instalment for such year be placed on the collector's roll, when a collector's roll is next made out, unless the Lieutenant-Governor in Council shall take action under the next succeeding section. Provision where assessment roll not revised or instalment omitted from roll.

3. Wherever it appears to the Lieutenant-Governor in Council that it would be inexpedient to levy in one year the full amount of the arrears, he may direct that the same, with interest duly compounded at five per centum per annum, in accordance with the rules for calculating annuities, should be spread over the whole or part of the term of twenty-two years then unexpired, or that the commencement of the term should be postponed so that such period of twenty-two years shall be computed from some first day of January subsequent to the day from which it would be computed under the thirty-sixth section of the said Act, as amended by this Act. Lieutenant-Governor in Council may postpone payment of arrears.

4. The Lieutenant-Governor in Council shall thereupon, by the same order, or by a subsequent order, state the proportion in which each item in the assessment roll shall be increased, and the number of years for which such increase shall take effect, and a certified copy of any order passed under the preceding sections, shall be attached to the duplicate roll in their respective offices, by the Commissioner of Public Works, the registrar, and the clerk of each municipality, with whom a duplicate of the roll had been deposited. Proportion in which items of assessment are to be increased to be stated in Order in Council.

5. The several parcels or lots of land and roads mentioned in the assessment roll shall each thereafter be charged with such increased amount as a rent-charge, in lieu of the amount with which it is charged under the assessment roll, for the term mentioned in the Order in Council and in preference to and with priority over all incumbrances. Increased amount a first charge on lands.

6. If, after the assessment roll has been deposited with the registrar or the Commissioner of Public Works, it is found that Correction by judge of errors in roll.
through

through mistake, inadvertence, or otherwise, the amounts set opposite the several parcels or lots of land and roads do not in the aggregate amount to the sum which should have been charged in respect of the drainage or other works, or exceed the same, the judge of the county court of the county may, upon the application of the Commissioner of Public Works, or of any municipal council interested, cause to be produced before him the several copies of the assessment roll, and shall correct the errors therein, by striking out any incorrect amounts and inserting in their stead, in different coloured ink, the correct amounts.

Corrected amounts to be substituted.

7. The amounts so settled by the judge shall thereafter be substituted for the amounts named in the assessment roll.

Judge may in certain cases order a general increase or decrease of amounts in the roll.

8. If the error is of such a nature that it can be corrected by making an indorsement that all the amounts in the roll, or any particular class thereof, should be increased or decreased in a uniform proportion, the judge may, instead of altering all the figures, write upon the face of the roll an order directing such increase or decrease, and such amounts shall thereupon be deemed to be increased or decreased in accordance with the said order.

Power and authority of judge.

9. The judge, upon the said application, shall have authority to take evidence under oath, and shall, where he considers it necessary, cause notice to be given to any of the persons whose assessments it is proposed to increase, but when the question to be discussed affects a number of persons it shall not be necessary to direct more than one of such class of persons to be notified; and where, in the opinion of the judge, the council sufficiently represents the interest of all the persons assessed, or the interest of any particular class, he need not cause any person, or any person of such class to be notified.

Provisions as to rents-charge.

10. The provisions of the thirty-seventh, thirty-eighth, and thirty-ninth sections of the said Act shall apply to the rents-charge substituted under this Act for the rents-charge in the assessment roll.

Orders in Council to be laid before Legislative Assembly.

11. Every order in Council made under the terms of this Act shall, as soon as conveniently may be after the making of such order, be laid before the Legislative Assembly.

Assessment not invalidated by omission to file roll.

12. In case the council of the municipality shall have omitted to file with the registrar of the county, or with the Commissioner of Public Works, a duplicate of the assessment roll within the time specified in the thirty-fourth section of the said Revised Statute, such omission shall not be held in any way to invalidate the assessment, but the council shall forthwith, as soon as their attention is called to such omission, file such duplicate or duplicates in accordance with the provisions of the said section.

CHAPTER

CHAPTER 4.

An Act to amend the law respecting the Registration of Births, Marriages and Deaths.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. Section twelve of the Assessment Act (chapter one hundred and eighty, Revised Statutes of Ontario,) is hereby amended R. S. O., c. 180, s. 12, amended. as follows, viz.: There shall be added to the assessment roll for every township three additional columns immediately after column twenty-six, to be headed respectively, "Birth," "Death," "Registered," and to be numbered twenty-seven, twenty-eight and twenty-nine, and it shall be the duty of the assessor or assessors when making the annual assessment to inquire of each resident taxable party whether there has been a birth or death in the family within the previous twelve months, and if either, whether the same has been registered or not; if it has not been registered the assessor shall put the figure 1 opposite the name in the column headed "Birth" or "Death," as the case may be; if registered, the letter "R" in the column (twenty-nine) set apart for "Registered." If any assessor refuses or neglects to comply with the requirements of this section, upon conviction thereof before any court of competent jurisdiction, he shall be subject to the penalty imposed by section one hundred and eighty-nine of the Assessment Act. This section shall take effect from and after the first day of January next.

2. When the birth of any child has been registered, and the name, if any, by which it was registered, has been altered, or if it was registered without a name, when a name is given to it, the parent or guardian of such child or other person procuring such name to be altered or given, may, within two years next after the registration of the birth, deliver to the Registrar-General a certificate signed by the minister or person who performed the rite of baptism upon which the name was given or altered, or if the child is not baptized, signed by the father, mother or guardian of the child, or other person procuring the name of the child to be given or altered, and the Registrar-General shall upon the receipt of such certificate make the necessary alteration in the margin of the schedule containing the original entry without any alteration in such entry. Alteration of name after registration, how made.

3. Section ten of the Act respecting the Registration of Births, Marriages and Deaths, chapter thirty-six of the Revised Statutes, R. S. O., c. 36, s. 10, amended.

Statutes, is hereby amended by striking out the word "one" in the fourth line thereof, and substituting therefor the word "two."

Provision for
registration of
birth after ex-
piration of two
years.

4. After the expiration of two years next after the birth of any child, whether born before or after the passing of this Act, that birth shall not be registered except with the written authority of the Registrar-General, and the fact of such authority having been given shall be entered in the column set apart for remarks in schedule A.

Provision for
registration of
death after ex-
piration of two
years.

5. After the expiration of two years next after any death, or after the finding of any dead body elsewhere than in a house, that death shall not be registered except with the written authority of the Registrar-General, and the fact of such authority being given shall be entered in the column set apart for remarks in schedule C.

R. S. O., c. 36
s. 24. amended.

6. Section twenty-four of the said Act is hereby amended by adding the words "and such prosecution shall be commenced within two years after the time allowed for reporting such birth, marriage or death."

Superintend-
ent, &c., of
cemetery to
notify division
registrar in
certain cases.

7. Every superintendent or caretaker of any cemetery or burial ground, whether public or private, permitting any dead body to be interred in the grounds over which he has charge, unless he receives a certificate under the hand of the division registrar of the division in which the death took place, that the particulars of such death have been duly registered, shall give to such division registrar within seven days after the burial a written notice under his hand, stating according to his knowledge, information and belief, the name and residence of the deceased and the date and place at which the death and burial took place. Any superintendent or caretaker neglecting or refusing to comply with this section, shall for each and every offence be liable to the penalties provided by the twenty-fourth section of the said Act respecting the Registration of Births, Marriages and Deaths, and the procedure for the recovery thereof shall be the same as is by said Act provided. This Act shall be read with and as part of the Act respecting the Registration of Births, Marriages and Deaths, and shall take effect from and after the passing thereof.

Penalty for
neglect.

CHAPTER 5.

An Act to consolidate the Superior Courts; establish a uniform system of pleading and practice; and make further provision for the due Administration of Justice.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. This Act may be cited as “The Ontario Judicature Act, Short title. 1881.”

2. This Act, except any provision thereof which is declared to take effect on the passing of this Act, or at any other specified date, shall commence and come into operation on the 22nd day of August, 1881.

PART I.

CONSTITUTION OF SUPREME COURT.

3. From and after the time appointed for the commencement of this Act, the several Courts hereinafter mentioned (that is to say) the Court of Appeal, the Court of Queen's Bench, the Court of Chancery, and the Court of Common Pleas, shall be united and consolidated together, and shall constitute, under and subject to the provisions of this Act, one Supreme Court of Judicature for Ontario.

Union of existing Courts into one Supreme Court.

(2) The Supreme Court shall consist of two permanent divisions. The said Courts of Queen's Bench, Chancery and Common Pleas shall constitute one of such divisions, and shall be called “The High Court of Justice for Ontario.” The said Court of Appeal shall constitute the other division, and shall be called “The Court of Appeal for Ontario.”

(3) The Court of Queen's Bench shall thereafter be called the Queen's Bench Division of the High Court; the Court of Chancery shall be called the Chancery Division thereof; and the Court of Common Pleas shall be called the Common Pleas Division thereof; the Judges of the said three Courts or Divisions shall be called Justices of the High Court.

(4) The persons hereafter appointed to fill the places of the Chief Justice of the Queen's Bench, the Chancellor of Ontario, and the Chief Justice of the Common Pleas, and their successors respectively, are to be appointed by

by the authority mentioned in the British North America Act, and with the same respective titles as heretofore.

- (5) Save as in this Act is otherwise expressly provided, all the Judges hereinbefore mentioned, and their successors, shall have in all respects equal power, authority, and jurisdiction.
- (6) The Chief Justice of the Queen's Bench shall be the President of the Queen's Bench Division, the Chancellor shall be the President of the Chancery Division, and the Chief Justice of the Common Pleas shall be the President of the Common Pleas Division.
- (7) Such one of the said three Judges as at the time of the passing of this Act may be entitled to precedence over the other two, shall be the first President of the High Court; and on his ceasing to be President, the President of the said High Court shall be that one of the Presidents of the Queen's Bench, Chancery and Common Pleas Divisions, who, for the time being, is first in order of seniority.
- (8) Upon any vacancy happening among the Judges, the Judge appointed to fill such vacancy is (subject to the provisions of this Act, and to any Rules of Court which may be made pursuant thereto) to become and be a member of the same Division to which the Judge whose place has become vacant belonged.
- (9) Nothing in this Act shall prevent, or shall be construed as intended to prevent, the transfer of any Judge of any of the said Divisions from one to another of the said Divisions.

Existing Court
of Appeal,
continued.

4. The Court of Appeal for Ontario, at present existing, is continued, under that name, and shall, as heretofore, consist of a Chief Justice, to be called the Chief Justice of Ontario, and three other Judges, to be called Justices of Appeal, as in the Act respecting the Court of Appeal, (R. S. O. cap. 3S,) mentioned; and the said Judges of the Courts of Queen's Bench, Chancery and Common Pleas, and their successors the Justices of the High Court, shall be *ex officio* Judges of the Court of Appeal, for the same purposes and with the same duties and powers as by the said Act is provided with respect to the Judges of the Courts of Queen's Bench, Chancery, and Common Pleas.

Oath of Office.

5. The oath to be taken by the Judges to be hereafter appointed shall be the following:—"I do solemnly and sincerely promise and swear, that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as ; so help me God."

The oath is to be administered to the Chief Justices and
the

the Chancellor by the Lieutenant-Governor in Council, and to the Justices of the High Court, other than the Chief Justices, in presence of the President of the High Court; and to the Justices of the Court of Appeal in open Court by the Chief Justice of Ontario, unless the Lieutenant-Governor in any of such cases shall otherwise direct.

6. Every existing Judge is, as to all matters within the legislative authority of this Province, to remain in the same condition as if this Act had not passed; and, subject to the provisions of this Act, each of the said existing Judges shall be capable of performing and liable to perform all duties which he would have been capable of performing or liable to perform if this Act had not passed.

Saving of rights and obligations of existing Judges.

7. If, in any case not expressly provided for by this Act, a liability to any duty, or any authority or power, not incident to the administration of justice shall have been imposed or conferred by any statute or law upon the Judges or any Judge of any of the Courts united and consolidated as aforesaid, (save as hereinafter mentioned) every Judge of the said High Court shall be capable of performing and exercising, and shall be liable to perform and empowered to exercise every such duty, authority and power, in the same manner as if this Act had not passed, and as if he had been duly appointed the successor of a Judge liable to such duty, or possessing such authority or power, before the passing of this Act.

Provision for former extraordinary duties of Judges.

(2) Any such duty, authority, or power, imposed or conferred in any such case as aforesaid, upon the Chief Justice of Ontario, the Chancellor, the Chief Justice of the Queen's Bench, or the Chief Justice of the Common Pleas, shall continue to be performed and exercised by them respectively, and by their respective successors, in the same manner as if this Act had not passed.

8. The Lieutenant-Governor in Council may from time to time, determine and declare the seal to be used in the Supreme Court and by which its proceedings shall be certified and authenticated; and until there is a seal for the Supreme Court, the seals now in use in and for the existing Courts may be used in and for the respective Divisions of the High Court, and in and for the Court of Appeal respectively.

Seal of Supreme Court.

PART II.

JURISDICTION

OF HIGH COURT.

9. The High Court of Justice shall be a Superior Court of Record, and, subject as in this Act mentioned, shall have the jurisdiction of

Jurisdiction of High Court of Justice.

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jurisdiction which, at the commencement of this Act, was vested in, or capable of being exercised by, the Court of Queen's Bench, the Court of Chancery, the Court of Common Pleas, and Courts of Assize, Oyer and Terminer, and Gaol Delivery (whether created by Commission or otherwise), and shall be deemed to be and shall be a continuation of the said Courts respectively (subject to the provisions of this Act) under the name of the High Court of Justice aforesaid.

- (2) The jurisdiction aforesaid shall include (subject to the exceptions hereinafter contained) the jurisdiction which, at the commencement of this Act, was vested in, or capable of being exercised by, all or any one or more of the Judges of the said Courts, respectively, sitting in Court or Chambers, or elsewhere, when acting as Judges or a Judge in pursuance of any statute or law; and all powers given to any such Court, or to any such Judges or Judge, by any statute; and also all ministerial powers, duties, and authorities, incident to any and every part of the jurisdiction.

Transfer of
pending business.

10. From and after the commencement of this Act the several jurisdictions vested in the said High Court of Justice, shall cease to be exercised except in the name of the said High Court of Justice as provided by this Act, save as otherwise in this Act provided.

Provision as
to pending
business.

11. In all causes, matters, and proceedings whatsoever which shall have been fully heard, and in which judgment shall not have been given, or having been given shall not have been signed, drawn up, passed, entered, or otherwise perfected, at the time appointed for the commencement of this Act, such judgment, decree, rule, or order may be given or made, signed, drawn up, passed, entered, or perfected respectively, after the commencement of this Act, in the name of the same Court, and by the same judges and officers, and generally in the same manner, in all respects as if this Act had not passed; and the same shall take effect, to all intents and purposes, as if the same had been duly perfected before the commencement of this Act.

- (2) Every judgment, decree, rule, or order of any Court whose jurisdiction is hereby vested in the High Court of Justice, which shall have been duly perfected at any time before the commencement of this Act, may be executed and enforced, and, if necessary, amended or discharged, by the High Court of Justice, in the same manner as if it had been a judgment, decree, rule, or order of the said High Court; and all causes, matters, and proceedings whatsoever, which shall be pending in any of the Courts whose jurisdiction is so vested as aforesaid at the commencement of this Act, shall be

continued

continued and concluded in and before the High Court of Justice; and the said High Court shall have jurisdiction for so continuing and concluding matters criminal as well as civil.

- (3) The said High Court shall have the same jurisdiction in relation to all such causes, matters, and proceedings as if the same had been commenced in the High Court of Justice, and continued therein down to the time at which this Act goes into effect; and, so far as relates to the form and manner of procedure, such causes, matters, and proceedings, or any of them, shall be continued and concluded, in and before the said High Court, as shall be directed by Rules or Orders of Court.

12. The jurisdiction of the High Court of Justice and the Court of Appeal, respectively, shall be exercised (so far as regards procedure and practice) in the manner provided by this Act, or by such Rules and Orders of Court as may be made pursuant to this Act; and where no special provision is contained in this Act or in any such Rules or Orders of Court with reference thereto, it shall be exercised as nearly as may be in the same manner as the same might have been exercised by the respective existing Courts if this Act had not been passed.

Rules as to exercise of jurisdiction.

JURISDICTION OF COURT OF APPEAL.

13. The Court of Appeal shall be a Superior Court of Record, and shall continue to have all the jurisdiction and power which the said Court has heretofore had, save as varied by or under this Act; and in civil cases shall also have jurisdiction and power to hear and determine appeals from any judgment or order, save as hereinafter mentioned, of the High Court of Justice, or of any Judges or Judge thereof, subject to the provisions of this Act, and to such Rules and Orders of Court for regulating the terms and conditions on which appeals shall be allowed, as may be made pursuant to this Act.

Jurisdiction of Court of Appeal.

14. For all the purposes of and incidental to the hearing and determination of any such appeal, and the amendment, execution, and enforcement of any judgment or order made on such appeal, and for the purpose of every other authority given to the Court of Appeal by this Act, the said Court of Appeal shall have all the power, authority, and jurisdiction by this Act vested in the High Court of Justice.

On an appeal from the High Court, Court of Appeal to have all powers of High Court.

15. The jurisdiction and power of the Court of Appeal, in respect of the said matters and all others, shall be and are subject to the provisions of this Act, and to such Rules and Orders

Jurisdiction subject to rules, etc.

Orders of Court for regulating the terms and conditions on which such appeals shall be allowed, as may be made pursuant to this Act.

RULES OF LAW.

Law and equity to be concurrently administered.

16. In every civil cause or matter commenced in the High Court of Justice, law and equity shall be administered by the High Court of Justice and the Court of Appeal respectively according to the Rules following:

- (2) If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right which heretofore could only have been given by a Court of Equity, the said Courts respectively, and every Judge thereof, shall give to such plaintiff or petitioner such and the same relief as ought to have been given by the Court of Chancery in a suit or proceeding for the same or the like purpose properly instituted before the passing of this Act.
- (3) If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by any plaintiff or petitioner in such cause or matter, or alleges any ground of equitable defence to any claim of the plaintiff or petitioner in such cause or matter, the said Courts respectively, and every Judge thereof, shall give to every equitable estate, right, or ground of relief so claimed, and to every equitable defence so alleged, such and the same effect, by way of defence against the claim of such plaintiff or petitioner, as the Court of Chancery ought to have given if the same or the like matters had been relied on by way of defence in any suit or proceeding instituted in that Court for the same or the like purpose before the passing of this Act.
- (4) The said Courts respectively, and every Judge thereof, shall also have power to grant to any defendant in respect of any equitable estate or right, or other matter of equity, and also in respect of any legal estate, right, or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant shall have properly claimed by his pleading, and as the said Courts respectively, or any Judge thereof, might have granted in any suit instituted for that purpose by the same defendant against the same plaintiff or

or petitioner; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who shall have been duly served with notice in writing of such claim pursuant to any Rule of Court or any order of the Court, as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose; and every person served with any such notice shall thenceforth be deemed a party to such cause or matter, with the same rights in respect of his defence against such claim, as if he had been duly sued in the ordinary way by such defendant.

- (5) The said Courts respectively, and every Judge thereof shall recognize and take notice of all equitable estates titles, and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the Court of Chancery would have recognized and taken notice of the same in any suit or proceeding duly instituted therein before the passing of this Act.

- (6) No cause or proceeding at any time pending in the High Court of Justice, or before the Court of Appeal, shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained, if this Act had not passed, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto:

Provided always, that nothing in this Act contained shall disable either of the said Courts from directing a stay of proceedings in any cause or matter pending before it if it shall think fit; and any person, whether a party or not to any such cause or matter, who would have been entitled, if this Act had not passed, to apply to any Court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule, or order, contrary to which all or any part of the proceedings in such cause or matter may have been taken, shall be at liberty to apply to the said Courts respectively, by motion in a summary way, for a stay of proceedings in such cause or matter, either generally, or so far as may be necessary for the purposes of justice; and the Court shall thereupon make such order as shall be just.

- (7) Subject to the aforesaid provisions for giving effect to equitable rights and other matters of equity in manner aforesaid,

aforesaid, and to the other express provisions of this Act, the said Courts respectively, and every Judge thereof, shall recognize and give effect to all legal claims and demands, and all estates, rights, duties, obligations, and liabilities existing by the Common Law or created by any Statute, in the same manner as the same would have been recognized and given effect to if this act had not passed by any of the Courts whose jurisdiction is vested in the High Court of Justice.

- (8) The High Court of Justice and the Court of Appeal respectively, in the exercise of the jurisdiction vested in them by this Act in every cause or matter pending before them respectively, shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as to them shall seem just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter; so that, as far as possible, all matters so in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.

Rules of law
upon certain
points.

17. Whereas it is expedient to amend and declare the Law to be hereafter administered in Ontario as to the matters next hereinafter mentioned: Be it enacted as follows:

{ Statutes of
Limitation not
to apply to
express trusts.

- (2) No claim of a *cestui que* trust against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations.

{ Equitable
waste.

- (3) An estate for life without impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right shall expressly appear by the instrument creating such estate.

{ Merger.

- (4) There shall not, after the commencement of this Act, be any merger by operation of law only of any estate, the beneficial interest in which would not be deemed to be merged or extinguished in equity.

{ Suits for
possession of
land by
mortgagors.

- (5) A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof shall

shall have been given by the mortgagee, may sue for such possession, or sue or distrain for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person, and in that case he may sue or distrain jointly with such other person.

- (6) In case of an assignment of a debt or other chose in action, if the debtor, trustee, or other person liable in respect of such debt or chose in action shall have had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he shall be entitled, if he think fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may, if he think fit, pay the same into the High Court of Justice under and in conformity with the provisions of law for the relief of trustees. } Assignment of debts and choses in action.
- (7) Stipulations in contracts, as to time or otherwise, which would not before the passing of this Act have been deemed to be or to have become of the essence of such contracts in a Court of Equity, shall receive in all Courts the same construction and effect as they would have heretofore received in equity. } Stipulations not of the essence of contracts.
- (8) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court, in all cases in which it shall appear to the Court to be just or convenient that such order should be made; and any such order may be made either unconditionally, or upon such terms and conditions as the Court shall think just; and if an injunction is asked, either before, or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted, if the Court shall think fit, whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title; and whether the estates claimed by both or by either of the parties are legal or equitable. } Injunctions and receivers.
- (9) In questions relating to the custody and education of infants, the Rules of Equity shall prevail. } Infants.
- (10) Generally in all matters not hereinbefore particularly mentioned, in which there is any conflict or variance between } Cases of conflict not mentioned.

between the Rules of Equity and the Rules of the Common Law with reference to the same matter, the Rules of Equity shall prevail.

PART III.

SITTINGS AND DISTRIBUTION OF BUSINESS.

HIGH COURT.

Abolition of terms.

18. The division of the legal year into terms shall be abolished so far as relates to the administration of justice; and there shall not be terms applicable to any sitting or business of the High Court of Justice, or of any commissioners to whom any jurisdiction may be assigned under this Act, or of any commissioners of assize; but in all cases in which, under the law now existing, the terms into which the legal year is divided are used as a measure for determining the time at or within which any act is required to be done, the same may continue to be referred to for the same or the like purpose, unless and until provision is otherwise made by any lawful authority.

Sittings of Courts.

19. Subject to Rules of Court, the High Court of Justice and the Court of Appeal, and the Judges thereof respectively, or any such commissioners as aforesaid shall have power to sit and act, at any time and at any place, for the transaction of any part of the business of such Courts respectively, or of such Judges or commissioners, or for the discharge of any duty which by any Statute, or otherwise, is required to be discharged during or after term.

Vacations.

20. The Lieutenant-Governor in Council may from time to time, upon any report or recommendation of the Council of Judges of the Supreme Court hereinafter mentioned, make, revoke or modify, orders regulating the vacations to be observed by the High Court of Justice and the Court of Appeal, and in the offices of the said Courts respectively; and any Order in Council made pursuant to this section shall, so long as it continues in force, be of the same effect as if it were contained in this Act; and Rules of Court may be made for carrying the same into effect in the same manner as if such Order in Council were part of this Act.

Sittings in vacation.

21. Provision shall be made by Rules of Court for the hearing, in Toronto, during vacation, by Judges of the High Court of Justice and the Court of Appeal respectively, of all such applications as may require to be immediately or promptly heard.

Commissions of Assize and other Commissions.

22. Commissions of assize or any other commissions, either general or special, may be issued, by the proper authority, assigning to the persons to be therein named, the duty of trying

trying and determining within any place or district specially fixed for that purpose by such commission, any causes or matters, or any questions or issues of fact or of law, or partly of fact and partly of law, in any cause or matter, depending in the said High Court; or the exercise of any civil or criminal jurisdiction capable of being exercised by the said High Court; and any commission so issued shall be of the same validity as if it were enacted in the body of this Act; and any commissioner or commissioners shall, when engaged in the exercise of any jurisdiction so assigned to him or them, be deemed to constitute a Court of the said High Court of Justice.

23. All causes and matters in the High Court of Justice shall be distributed among the several Divisions and Judges of the said High Court, in such manner as may from time to time be determined by any Rules of Court, or orders of transfer, to be made under the authority of this Act. Every document by which any cause or matter shall be commenced in the said High Court shall be marked with the name of the Division to which the same is assigned.

Rules of Court to provide for distribution of business.

24. Subject to any Rules of Court and to the provisions of this Act and to the power of transfer, all causes and matters pending in the Court of Queen's Bench at the commencement of this Act are hereby assigned to the Queen's Bench Division of the High Court; all causes and matters pending in the Court of Chancery at the commencement of this Act are hereby assigned to the Chancery Division; and all causes and matters pending in the Court of Common Pleas at the commencement of this Act are assigned to the Common Pleas Division of the High Court.

Assignment of pending business to the Divisions of the High Court.

25. Subject as aforesaid, every cause or matter afterwards commenced in the said High Court of Justice shall be assigned to one of the Divisions of the said High Court, by marking the document by which the same is commenced with the name of such Division.

Documents by which cause commenced to be marked with name of Division to which assigned.

- (2) All interlocutory and other steps and proceedings in or before the said High Court in any cause or matter subsequent to the commencement thereof, shall be taken (subject to any Rules of Court and to the power of transfer) in the Division of the said High Court to which such cause or matter is for the time being attached.

26. Any cause or matter may at any time, and at any stage thereof, and either with or without application from any of the parties thereto, be transferred from one Division or Judge of the High Court of Justice to any other Division or Judge thereof, by such authority and in such manner as Rules of Court

Power of Transfer.

Court may direct, or as transfers might be made from one Court to another before the passing of this Act.

Rota of Judges
for election
petitions.

27. The Judges to be placed on the rota for the trial of election petitions for Ontario in each year, under the provisions of "The Controverted Elections Act of Ontario," shall be selected out of the Judges of the Supreme Court in such manner as may be provided by any Rules of Court to be made for that purpose; and in the meantime, and subject thereto, shall be selected, as hitherto, that is to say: the members of the Court of Appeal, and of the Queen's Bench, Chancery and Common Pleas Divisions aforesaid shall, on or before the third day of Michaelmas Term in every year, select, by a majority of votes of the members of such Court or Division, one of the Judges thereof: Provided that the Judges who at the commencement of this Act, shall be upon the rota for the trial of such petitions during the then current year, shall continue upon such rota until the end of such year, in the same manner as if this Act had not passed.

Business to be
disposed of by
one Judge as
far as
practicable.

28. Every action and proceeding in the High Court of Justice, and all business arising out of the same, except as herein-after provided, shall, so far as is practicable and convenient, be heard, determined, and disposed of, before a single Judge.

(2) A Judge sitting elsewhere than in a Divisional Court, is to decide all questions coming properly before him, and is not to reserve any case, or any point in a case, for the consideration of a Divisional Court.

(3) In all such cases any Judge sitting in Court shall be deemed to constitute a Court.

Divisional
Courts of the
High Court.

29. All business which may from time to time be so ordered by Rules of Court shall be transacted and disposed of by Divisional Courts of the said High Court of Justice, which shall for that purpose exercise all or any part of the jurisdiction of the said High Court.

(2) Any number of such Divisional Courts may sit at the same time.

(3) A Divisional Court of the said High Court of Justice shall be constituted by two or three, and no more, of the Judges thereof; and, except when through pressure of business or any other cause it may not conveniently be found practicable, shall be composed of three such Judges.

(4) Every Judge of the said High Court shall be qualified and empowered to sit in any of such Divisional Courts.

(5)

- (5) But where the Divisional Court is constituted of two Judges only, such Court shall not hear or adjudicate upon any application against the judgment of either of such Judges.
- (6) The President of every such Divisional Court of the High Court of Justice shall be the senior Judge of those present, according to the order of their precedence under this Act or otherwise.

30. Divisional Courts shall, as far as may be found practicable and convenient, include one or more Judge or Judges attached to the particular Division of the said Court to which the cause or matter out of which such business arises has been assigned. Constitution of Divisional Courts.

31. Subject to any Rules of Court, it shall be the duty of every Judge of the High Court who shall not for the time being be occupied in the transaction of any business specially assigned to him, or in the business of any other Divisional Court, to take part, if required, in the sittings of such Divisional Courts as may from time to time be deemed necessary for the transaction of the business of any of the Divisions of the High Court; Judges to take part in business of any Division.

(a) All such arrangements as may be necessary or proper for that purpose, or for constituting or holding any Divisional Courts of the said High Court of Justice for any other purpose authorized by this Act, and also for the proper transaction of that part of the business of the said Divisions respectively which ought to be transacted by one or more Judges not sitting in a Divisional Court, shall be made from time to time under the direction and superintendence of the Judges of the said High Court;

(b) And in case of difference among them, in such manner as a majority of the said Judges shall determine.

APPEALS.

32. No order made by the High Court of Justice or any Judge thereof, by the consent of parties, or as to costs only which by law are left to the discretion of the Court, shall be subject to any appeal, except by leave of the Court, or Judge, making such order. Orders not subject to appeal.

33. No appeal shall lie from the judgment or order of any Divisional Court or Judge of the High Court to the Court of Appeal without the special leave of the Judge or Divisional Court whose judgment Limitation of appeal where amount does not exceed \$200.

judgment or order is in question, or of the Court of Appeal; unless the title to real estate or some interest therein or the validity of a patent is affected; or unless the matter in controversy on the appeal exceeds the sum or value of \$200, exclusive of costs; or unless the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a general or public nature affecting future rights.

Limitation of appeal where amount does not exceed \$500.

34. In case there has been no difference of opinion among the Judges of the Divisional Court as to any order of such court, or where on a motion to set aside or discharge a rule, order, or decision of a Judge, the order of the Divisional Court did not substantially vary the rule, order, or decision moved against, no appeal shall lie from the order of the Divisional Court of the High Court to the Court of Appeal without such leave as aforesaid, unless the title to real estate or some interest therein or the validity of a patent is affected; or unless the matter in controversy on the appeal exceeds the sum or value of \$500, exclusive of costs; or unless the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a general or public nature affecting future rights.

Appeals from interlocutory orders.

35. There shall be no appeal to a Divisional Court from any interlocutory order, whether made in Court or Chambers, in case before the passing of this Act there would have been no relief from a like order by an application to a Superior Court; and there shall be no appeal to the Court of Appeal from any interlocutory order in case before the passing of this Act there would have been, no relief from a like order by an appeal to the Court of Appeal. Any doubt which may arise as to what decrees, orders, or judgments, are interlocutory, shall be determined by the Court of Appeal.

Discharging orders made by a single Judge.

36. Save as aforesaid, every rule, order, or decision made by a Judge of the said High Court in Chambers, except orders made in the exercise of such discretion as by law belongs to him, may be set aside or discharged upon notice by any Divisional Court; and no appeal shall lie to the Court of Appeal from any such rule, order or decision, unless by special leave of the Judge by whom the same was made or of the Divisional Court aforesaid or of the Court of Appeal.

Appeal from decision of a Judge in Court.

37. Save as aforesaid and subject to the other provisions of this Act, any rule, order or decision of a Judge in Court may be appealed against to the Court of Appeal.

No appeal unless proper notice and security given.

38. No appeal to the Court of Appeal shall be allowed unless notice thereof is given in writing to the opposite party and to the Clerk of the Crown and Pleas, or Registrar of the proper Court, within one month after the judgment complained

plained of, or within such further time as the Court appealed from, or a Judge thereof, may allow; nor unless within 3 months after the judgment complained of or within such further time as the Court or Judge aforesaid may allow, the appellant gives proper security to the extent of \$400 to the satisfaction of the Court appealed from, that he will effectually prosecute his appeal, and pay such costs and damages as may be awarded in case the judgment appealed from is in whole or in part affirmed.

39. Save as aforesaid, appeals from the judgments of the High Court or a Judge thereof in civil cases, shall be within the same time and in the same manner and with the same effect as heretofore from like judgments of the Superior Courts or of a Judge thereof. Appeals from High Court.

40. Upon the request of the Judge or Judges with or for whom he is requested to sit or act, it shall be lawful for any Judge of the Court of Appeal, who may consent so to do, to sit and act as a Judge of the said High Court, or to perform any other official or ministerial acts for or on behalf of any Judge absent from illness or any other cause, or in the place of any Judge whose office has become vacant, or as an additional Judge of any Division; and while so sitting and acting any such Judge of the Court of Appeal shall have all the power and authority of a Judge of the said High Court. Provision for absence or vacancy in office of a Judge.

41. In any cause or matter pending before the Court of Appeal, any direction incidental thereto, not involving the decision of the appeal, may be given by a single Judge of the Court of Appeal; and a single Judge of the Court of Appeal may at any time during vacation make any interim order to prevent prejudice to the claims of any parties pending an appeal as he may think fit; but every such order made by a single Judge may be discharged or varied by the Court of Appeal or a Divisional Court thereof. Power of a single Judge in Court of Appeal.

42. In case from pressure of business, or other cause, it shall at any time seem expedient to the Lieutenant-Governor in Council, or to the Judges of the Supreme Court, or a majority of them (of which majority two Judges of the Court of Appeal, including the Chief Justice unless absent on leave, shall form part), the Court of Appeal may sit in two Divisions at the same time; and in such case, and to enable two Divisional Courts to be held, the Judges of the said Supreme Court, or the said majority of them, shall select from the Judges of the High Court so many of the Judges thereof as may be necessary, together with the ordinary Judges of the Court of Appeal, to form two Divisions of the said Court, and the Judges so chosen and acting shall have all the power and authority of the Judges of the said Court of Appeal. Divisional Courts of Court of Appeal.

(2)

- (2) Unless otherwise arranged by the Judges of the Court of Appeal and the said Judges so selected, two of the ordinary Judges of the Court of Appeal shall where practicable sit in each such Divisional Court.

Limitation of appeal to Supreme Court of Canada.

43. No appeal shall lie to the Supreme Court of Canada without the special leave of such Court, or of the Court of Appeal, unless the title to real estate or some interest therein or the validity of a patent is affected; or unless the matter in controversy on the appeal exceeds the sum or value of \$1,000, exclusive of costs; or unless the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a general or public nature affecting future rights.

PART IV.

TRIAL AND PROCEDURE.

Judgment not to be given for party unless entitled on the facts proved.

44. At the trial of any action no party shall be entitled to judgment on the ground of his pleading being true, if the facts proved are not sufficient in point of law to entitle him to judgment.

Modes of trial.

45. Subject to Rules of Court, in causes and matters which, at the time of the passing of this Act, are within the jurisdiction of the Courts of Law, the mode of trial shall be as is now provided by law for like cases in actions in the said Courts of Queen's Bench and Common Pleas; and, subject as aforesaid, in causes and matters over which the Court of Chancery has, at the time of the passing of this Act, exclusive jurisdiction, the mode of trial shall be according to the present practice of the Court of Chancery.

Sittings for trial of non-jury cases.

46. As often in every year as the due despatch of business and the public convenience may require, there shall be sittings at every county town, for the trial of causes and issues, whether legal or equitable, which are to be heard and determined by a Judge without a jury, and in case such sittings are appointed at any county town for the same time and before the same Judge as jury cases, separate lists shall be made of the jury and non-jury cases, and the jury cases shall first be disposed of, unless where the Judge shall see fit, for some special reason, to direct otherwise. This section is subject to section 255 of the Common Law Procedure Act.

References and assessors.

47. Subject to any Rules of Court and to such right as may exist to have particular cases submitted to the verdict of a jury, any question arising in any cause or matter (other than a criminal proceeding by the Crown) before the High Court of Justice or before the Court of Appeal, may be referred, by the Court

Court or by any Divisional Court or Judge before whom such cause or matter may be pending, for inquiry and report to a Judge of a County Court, or to an official referee, or to any other person agreed on by the parties; and the report of such referee may be adopted wholly or partially by the Court, and may (if so adopted) be enforced as a judgment by the Court.

- (2) The High Court, or any Divisional Court or Judge as aforesaid, or the Court of Appeal, may also, in any such cause or matter as aforesaid in which it may think it expedient so to do, call in the aid of one or more assessors specially qualified, and try and hear such cause or matter wholly or partially with the assistance of such assessors. The remuneration, if any, to be paid to such referees or assessors shall be determined by the Court.

48. In any cause or matter (other than a criminal proceeding by the Crown) before the said High Court, (1) in which all parties interested who are under no disability consent thereto, and also (2) without such consent in any such cause or matter requiring any prolonged examination of documents or accounts, or any scientific or local investigation which cannot, in the opinion of the Court or a Judge conveniently be made before a jury, or conducted by the Court or Judge directly,—the Court or a Judge may at any time, on such terms as may be thought proper, order any question or issue of fact, or any question of account arising in the cause or matter, to be tried either before a Judge of a County Court, or before an official referee, or (if the parties so agree) before a special referee.

Power to direct trials before referees.

- (2) All such trials before referees shall be conducted in such manner as may be prescribed by Rules of Court, and subject thereto in such manner as the Court or Judge ordering the same shall direct.

49. In all cases of a reference to or trial by referees under this Act, the referees shall be deemed to be officers of the Court, and shall have such authority for the purpose of the reference or trial as shall be prescribed by Rules of Court, or (subject to such Rules) by the Court or Judge ordering such reference or trial; and the report of any referee upon any question of fact on any such trial shall (unless set aside by the Court) be equivalent to the verdict of a jury.

Power of referees and effect of their findings.

50. With respect to all such proceedings before referees and to their reports, the Court or Judge shall have, in addition to any other powers, the same or the like powers as by the Common Law Procedure Act and other Acts are given to any Court whose jurisdiction is hereby vested in the said High Court with respect to references to arbitration and proceedings before arbitrators and their awards and appeals therefrom respectively.

Powers of Court with respect to proceedings before referees.

Seals of Deputy Registrars and Deputy Clerks of the Crown.

51. In the office of every Deputy Registrar and Deputy Clerk of the Crown such seal shall be used as the Lieutenant-Governor shall from time to time direct, which seal shall be impressed on every writ and other document issued out of or filed in such office; and all such writs and documents, and all exemplifications and copies thereof, purporting to be sealed with the seal of any such Deputy Registrar or Deputy Clerk of the Crown, shall in all parts of this Province be received in evidence without further proof thereof.

Provision for saving of existing procedure where not inconsistent with this Act or Rules of Court.

52. Save as by this Act or by any Rules of Court may be otherwise provided, all forms and methods (as nearly as may be) of procedure which at the commencement of this Act were in force in any of the Courts whose jurisdiction is by this Act vested in the said High Court under or by virtue of any law, general order, or rule whatsoever, and which are not inconsistent with this Act or with any Rules of Court—may continue to be used and practised, in the said High Court of Justice, in such and the like cases, and for such and the like purposes, as those to which they would have been applicable in the respective Courts of which the jurisdiction is so vested, if this Act had not passed.

RULES OF COURT.

Rules of Court.

53. The Rules of Court in the Schedule to this Act shall come into operation at the commencement of this Act and as to all matters to which they extend shall thenceforth regulate the proceedings in the High Court of Justice. But such Rules of Court and also all such other Rules of Court (if any) as may be made after the passing and before the commencement of this Act, under the authority of the next section, may be annulled or altered by the authority by which new Rules of Court may be made after the commencement of this Act.

Who may make Rules.

54. At any time after the passing and before the commencement of this Act, the Chief Justice of Ontario, the Justices of Appeal, the Chief Justice of the Queen's Bench, the Chancellor, and the Chief Justice of the Common Pleas, or any five of them, and the other Judges of the several Courts intended to be united and consolidated by this Act, or a majority of such other Judges, may make any further or additional Rules of Court for carrying this Act into effect, and in particular for all or any of the following matters, so far as they are not provided for by the Rules in the Schedule to this Act; that is to say :—

- (a) For regulating the sittings of the High Court of Justice and the Court of Appeal, and of any Divisional or other Courts thereof respectively, and of the Judges of the said High Court sitting in Chambers;

(b)

- (b) For regulating the pleading, practice, and procedure in the High Court of Justice and Court of Appeal;
 - (c) For the hearing of appeals from County Courts, or a Judge of a County Court, from Surrogate Courts, Stipendiary Magistrates, or Division Courts, by any two or more of the Judges of the Supreme Court, instead of the same being heard by the Court of Appeal, or a Judge thereof, (as the case may be); and for regulating the selection of the Judges of the Supreme Court, who shall hear such appeals, and for regulating all matters relating to the practice on such appeals;
 - (d) Generally, for regulating any matters relating to the practice and procedure of the said Courts respectively, or to the duties of the officers thereof, or of the said Supreme Court, or to the costs of proceedings therein; and every other matter deemed expedient for the better attaining the ends of justice, advancing the remedies of suitors, and carrying into effect the provisions of this Act and of all other Acts now or hereafter in force respecting the said Courts.
- (2) The said Judges shall have power, subject to the approval of the Lieutenant-Governor in Council, to make rules from time to time regulating all fees payable in stamps.
- (3) From and after the commencement of this Act, the said Supreme Court may at any time, with the concurrence of a majority of the Judges thereof present at any meeting for that purpose held, alter and annul any Rules of Court for the time being in force, and have and exercise the same power of making Rules of Court as is by this section vested in the existing Judges before the commencement of this Act.
- (4) All Rules of Court made in pursuance of this section, if made before the commencement of this Act, shall from and after the commencement of this Act, and if made after the commencement of this Act shall from and after they come into operation, regulate all matters to which they extend, until annulled or altered in pursuance of this section.
- (5) Subject to any Rules of Court which may be made under the preceding provisions of this section the Judges of the Court of Appeal shall continue after the commencement of this Act to have all the powers
- c

powers which they now possess as to making Rules of Court for the regulation of the practice in appeals; and the Judges of the High Court shall as regards matters in the said High Court have in like manner all the powers which the Judges of the Court of Chancery and of the Superior Courts of Law have respectively for the regulation of the practice of the said Courts.

- (6) Where any provisions in respect of the practice or procedure of any Courts, the jurisdiction of which is vested by this Act in the High Court of Justice, are contained in any Statute, Rules of Court may be made for modifying such provisions to any extent that may be deemed necessary for adapting the same to the High Court of Justice, unless, in the case of any Act hereafter passed, this power shall be expressly excluded with respect to such Act or any provision thereof.
- (7) Any provisions relating to the payment, transfer, or deposit into, or in, or out of any Court of any money or property, or to the dealing therewith, shall, for the purposes of this section, be deemed to be provisions relating to practice and procedure.

Governor in Council may authorize certain Judges to make Rules.

55. The Lieutenant-Governor in Council may from time to time authorize the following persons, viz.: the Chief Justice of Ontario, the Chief Justice of the Queen's Bench, the Chancellor, and the Chief Justice of the Common Pleas, to make Rules of Court under this Act; every such appointment to continue for such time as shall be specified by Order in Council, and the Judges so appointed, or any three of them, may make such Rules, and the same shall have the same effect as if made by all the Judges of the Supreme Court, under the preceding section.

Council of Judges to consider procedure and administration of Justice.

56. A Council of the Judges of the said Supreme Court of which due notice shall be given to all the said Judges, shall assemble once at least in every year, on such day or days as shall be fixed by the Lieutenant-Governor, for the purpose of considering the operation of this Act and of the Rules of Court for the time being in force, and also the working of the several offices and the arrangements relative to the duties of the officers of the said Courts respectively, and of inquiring and examining into any defects which may appear to exist in the system of procedure or the administration of the law in the said High Court of Justice or the said Court of Appeal, or any other Court or by any other authority; and they shall report annually to the Lieutenant-Governor what (if any) amendments or alterations it would in their judgment be expedient to make in this Act, or otherwise relating to the administration of justice, and what other provision (if any) which cannot be carried . into

into effect without legislative authority it would be expedient to make for the better administration of justice. An Extraordinary Council of the said Judges may also at any time be convened by the Lieutenant-Governor.

57. All statutes relating to the several Courts consolidated by this Act, and the Judges thereof, or wherein any of such Courts or Judges are mentioned or referred to, shall be construed and take effect, so far as relates to anything done or to be done after the commencement of this Act, as if the said High Court of Justice, and the Judges thereof, as the case may be, had been named therein instead of such Courts, so consolidated as aforesaid, or the Judges thereof; and in all cases not hereby expressly provided for in which, under any such Statute, the concurrence or the advice or consent of the Judge or any Judges, or of any number of the Judges, of any one or more of the Courts so consolidated is made necessary to the exercise of any power or authority capable of being exercised after the commencement of this Act, such power or authority may be exercised by and with the concurrence, advice, or consent of the same or a like number of Judges of the said High Court of Justice; and any general or other commission, by virtue whereof any Judges of any of the Courts so consolidated may, at the commencement of this Act, be empowered to try, hear, or determine any causes or matters civil or criminal, shall remain and be in full force and effect, unless and until they shall respectively be in due course of law revoked or altered.

Statutes relating to existing Courts to be read as applying to Courts under this Act.

PART V.

OFFICERS AND OFFICES,

58. Subject to orders of the Lieutenant-Governor in Council, all officers, save as hereinafter mentioned, who at the time of the commencement of this Act shall be attached to the Court of Chancery shall be attached to the Chancery Division of the said High Court; and all officers who at the time of the commencement of this Act shall be attached to the Court of Queen's Bench shall be attached to the Queen's Bench Division of the said High Court; and all officers who at the time of the commencement of this Act shall be attached to the Court of Common Pleas shall be attached to the Common Pleas Division of the said High Court.

Officers of existing Courts to be attached to their respective divisions of the High Court.

- (2) Subject as aforesaid, the above provision shall not apply to the Master in Ordinary or local masters of the Court of Chancery, or to the taxing officers, and all these officers shall be officers of the Supreme Court and attached thereto.

(3)

- (3) All officers shall hold their offices by the same tenure, and upon the same conditions as to security and otherwise, as if this Act had not passed.
- (4) Where a doubt exists as to the position under this Act of any existing officer attached to any Court or Judge affected by this Act, such doubt may be determined by Rule of Court. The Lieutenant-Governor in Council shall have the power, and (subject to any Order in Council) the Judges of the said Supreme Court shall have power, to change the official names of offices and officers, and to change and regulate the duties of the officers.
- (5) Any officer who is removable by the Court to which he is now attached shall be removable by the Court to which he shall be attached under this Act, or by the majority of the Judges thereof.

Distribution
of business
among
officers.

59. Subject to any Order in Council in that behalf, the business to be performed in the High Court of Justice and in the Court of Appeal respectively, or in any Divisional or other Court thereof, or in the chambers of any Judge thereof, other than that performed by the Judges, shall be distributed among the several officers attached to the said Courts by section 58 in such manner as may be directed by Rules of Court; and such officers shall perform such duties in relation to such business as may be directed by Rules of Court; and, subject to such Order in Council and Rules of Court, all such officers respectively shall continue to perform the same duties, as nearly as may be, and in the same manner as if this Act had not passed.

Existing se-
curities con-
tinued.

60. All bonds, and securities heretofore given by Government officers and their sureties or by other persons, shall be held to be and continue binding, notwithstanding the changes effected by this Act, except in the case of any surety who, at least one calendar month before this Act goes into effect, gives notice in writing to the Provincial Secretary of his wish to be relieved of his liability.

Oath of
officers.

61. Every officer of the Court hereafter appointed before he enters upon his duties shall take and subscribe the following oath: "I, A. B. of—, do hereby solemnly swear that I will, according to the best of my skill, learning, ability and judgment, well and faithfully execute and fulfil the duties of the office of (*as the case may be*) without favour or affection, prejudice or partiality, to any person or persons whomsoever: So help me God."

- (2) When not convenient to a person appointed to any office to attend at Toronto to take the oath of office, the
oath

oath may be taken before the Judge of the County Court of the County in which such officer resides, or before any Commissioner authorized to administer affidavits in such County, and the oath shall be certified by such Judge or Commissioner and filed amongst the records of the Court at Toronto. In all other cases the oath shall be administered to the officer by the Judges or one or more of them in open court.

62. Subject to any Rules of Court, the Master in Chancery, the Clerks of the Crown and Pleas, the Referee in Chambers, the Accountant, the Inspector of Titles, the Referee of Titles, the Local Masters of the Court of Chancery, and any other officers of the Superior Courts of Law and Equity, shall respectively have (under the said names or any names which by or under this Act are or shall be given to them or any of them) the same judicial and other powers in respect of business in each and every of the Divisions of the said High Court as they have now in respect of the business of the Court to which they are attached; and the orders and decisions of the said officers shall be subject to appeal as heretofore.

Authority of certain officers preserved.

63. Subject as aforesaid, the Judges of the County Courts and the officers specially named in the last preceding section, shall be official referees for the trial of such questions as shall be directed to be tried by such referees.

Official referees.

(2) In case the business is found to require other or additional official referees, and the Presidents of the said Divisions so certify, the Lieutenant-Governor from time to time may appoint other and additional official referees accordingly.

(3) In the case of officers who are paid by salary, the fees on any reference or trial shall be paid in stamps; other referees shall be paid by fees.

64. There shall be a Local Master in every County or Union of Counties other than the County of York, and every Local Master hereafter appointed shall reside in the county to which he is appointed.

Local Masters, Deputy Registrars, and Deputy Clerks of the Crown.

(2) Where there is no Local Master at the commencement of this Act, or when a vacancy occurs in the office of Local Master, the Judge of the County Court for the County shall be the Local Master until and unless another person is appointed Local Master. In such case if there are two County Judges—a Senior and Junior Judge—both Judges shall be Local Masters until and unless one of them or some other person is appointed sole Local Master.

(3)

- (3) Where a County Court Judge is the Local Master, the County Court Clerk shall be the Deputy Registrar.
- (4) The offices of Deputy Clerk of the Crown and Deputy Registrar (not Local Master) shall be consolidated as vacancies occur in either; unless where the Presidents of the Divisions of the High Court or a majority recommend otherwise.
- (5) Where a reference is made to a Deputy Clerk of the Crown, or an examination is taken by him, he shall be entitled to take and receive to his own use the fees on such reference or examination.
- (6) The Lieutenant-Governor in Council may commute the fees of a Local Master, or of a Local Master and Deputy Registrar, including his fees as an official referee, for a fixed annual sum, such sum not to exceed the average income derived from fees for the preceding five years.
- (7) The Lieutenant-Governor in Council may commute the fees payable to a Deputy Clerk of the Crown on references and examinations and other matters for a fixed annual sum, such sum not to exceed the average income derived from such fees during the preceding five years.
- (8) Any annual sum so fixed as provided in the preceding two sub-sections shall continue until varied by Order in Council, but any order for payment of any such annual sum as aforesaid may be rescinded, and the amount of such sum may by Order in Council be increased or diminished, provided that in no case shall any Order in Council name a sum exceeding the average income or fees aforesaid (as the case may be) during the preceding five years.
- (9) The local masters, deputy registrars, and local clerks, shall hereafter, like other officers, be appointed by the Lieutenant-Governor, and shall hold office during the pleasure of the Lieutenant-Governor.
- (10) Where a Local Master, or Deputy Registrar, or Deputy Clerk of the Crown, or other officer, is paid by a salary, he shall not, save as hereinbefore expressly provided, take for his own benefit, directly or indirectly, any fee or emolument, save the salary to which he may be entitled; but the like sums and fees heretofore payable on proceedings in his office shall continue to be payable; and all such fees shall form part of the Consolidated Revenue Fund of this Province, and shall be payable in stamps, subject to the provisions of the Act respecting Law Stamps. (11)

- (11) No Local Master whose gross income from his office of Local Master or of Deputy Registrar and Local Master, is \$2,000 or upwards shall, during the continuance of his appointment, directly or indirectly, practise in the profession of the law as Counsel, Attorney, or Solicitor, or as a Notary Public, or Conveyancer, or do any manner of conveyancing, or prepare any papers or documents to be used in any Court of this Province, under the penalty of forfeiture of office, and the further penalty of \$400, to be recovered by any person who sues for the same by action in the High Court, and one-half of such pecuniary penalty shall belong to the party suing, and the other half to Her Majesty for the use of the Province; but nothing in this section shall prevent the Lieutenant-Governor in Council, or the High Court, from requiring a Local Master whose income does not amount to \$2,000, to abstain from practising under the like penalties.
- (12) The High Court may, with the concurrence of the Lieutenant-Governor, relieve any person now holding the office of Local Master and Deputy Registrar, or any other officer from the operation of the preceding first and eleventh sub-sections or either of them.
- (13) Every stamp affixed to any matter or proceeding under the authority of the Revised Statute respecting Law Stamps, shall be cancelled in such manner as the Lieutenant-Governor in Council may direct; and in case the Lieutenant-Governor thinks fit to dispense therewith, it shall not be necessary for the officer who cancels the stamps to mark thereon, in ink, the date of the issue or receipt of the matter, or proceeding to which the stamp is affixed.
- (14) Every officer paid by fees shall yearly, and on or before the 15th day of January in every year, transmit to the Treasurer of the Province a just, true and faithful account, to be verified upon oath, of the amount of fees paid or payable to him in respect of his office during the preceding year.
- (15) The Lieutenant-Governor or the member of the Government having charge of the matter may require the return to state any particulars, or to be made in any form, that may be thought proper, and such return shall be made accordingly.

65. No Clerk or Registrar of the Surrogate Court shall for fee or reward draw or advise upon any will or other testamentary paper, or any paper or document connected with the duties of his office for which such fee is not expressly allowed to him by the tariff

Surrogate and
County Court
Clerks not to
draw or advise
on certain
documents.

tariff in that behalf; and no Clerk of a County Court shall for fee or reward draw or advise upon any chattel mortgage, or any other paper or document connected with the duties of his office and for which a fee is not expressly allowed by the tariff in that behalf.

Official Guardian
ad litem.

66. There shall be an official Guardian *ad litem* of infants; and the solicitor heretofore usually appointed by the Court of Chancery as guardian *ad litem* of infants shall be the first Official Guardian, and shall hold office during pleasure as if appointed by the Lieutenant-Governor.

- (a) In case of a vacancy the appointment shall be by the Lieutenant-Governor, as in the case of the other officers of the Courts; and the person appointed shall be a Barrister-at-Law and Solicitor of this Province, of not less than seven years standing, and shall hold office during pleasure;
- (b) The official Guardian, besides acting as guardian *ad litem* of infants under Rules of Court and other orders, shall perform such other duties as a Divisional Court or Judge may from time to time direct.
- (2) The same costs as hitherto shall be paid to the guardian by any party; and the same costs as hitherto shall be payable to the guardian out of funds in Court; but all costs so paid to the Guardian by any party in respect of any business done after the commencement of this Act shall be by such Guardian paid forthwith into Court with the privity of the Accountant of the High Court, and shall be placed to the credit of an account to be intituled "Account of Official Guardian *ad litem*;" and all costs payable to the Guardian out of any funds in Court, in respect of any business done after the commencement of this Act shall be transferred to the credit of the same account.
- (3) Where the estate is small, and, in view of the amount at the credit of the said account, the amount or part of the amount payable out of the estate for the Guardian's costs does not appear to be required to pay the salary and disbursements of the official Guardian, the Court may withhold payment out of such estate of the sum or any part of the sum due for the Guardian's costs in respect of such estate; and may distribute the estate as if such costs were not payable by or out of the same.
- (4) There shall be paid to the said Guardian in respect of all business done after the commencement of this Act a fixed salary of such sum per annum as, in view of the amount

amount of business done or to be done by the Guardian, and the sum at the credit of the said account, the said Judges shall think reasonable, and the Lieutenant-Governor in Council approve; which salary shall be over and above all necessary disbursements; and the salary and disbursements shall be paid monthly or otherwise as shall be determined by rule of Court, out of the fund at the credit of the said account of official Guardian *ad litem*, and not otherwise.

- (5) The surplus appearing from time to time at the credit of the said account beyond what may be required to pay the charges on the said account, shall be transferred to the "Suitors' Fee Fund Account."
- (6) Where the official Guardian has occasion to employ a Solicitor in another County for the purpose of any proceeding in a suit, such Solicitor shall be entitled to receive from the official Guardian in respect of such proceeding the same costs as if the Solicitor so employed were Solicitor and Guardian of the Infant.
- (7) The Official Guardian *ad litem* shall once every 6 months file in the Accountant's office an affidavit, shewing all costs recovered by him as Official Guardian *ad litem*, during the 6 months preceding the making of such affidavit, giving therein the several amounts received by him, and the name or names of the suits and matters in which the same were respectively received by him, together with the date of receipt.
- (8) When a new official Guardian *ad litem* is appointed, he shall *ipso facto* become, and be by virtue of such appointment, Guardian *ad litem* to all infants, in the place and stead of his predecessor, with the same duties and powers; and the latter (his executors or administrators, as the case may be) shall forthwith deliver over to the new Official Guardian all letters, papers, documents and books in his possession or power as Official or other Guardian *ad litem* of infants; and the new guardian shall forthwith communicate his appointment to whom it may concern.
- (9) The Lieutenant-Governor in Council, or the High Court, may order that the official Guardian is not to practise as a Barrister or Solicitor, and in such case he shall not, during the continuance of his appointment and of such order, directly or indirectly practise the profession of the law as Counsel or Solicitor, or as a Notary Public, or Conveyancer, or do any manner of conveyancing, or prepare any papers or documents

ments to be used in any Court of this Province, except in the discharge of his duties as official guardian, or of any other duties which may be assigned to him by the said High Court or any Division or Judge thereof as the case may be; and the said official Guardian in case of his offending in the matter aforesaid shall be subject to a penalty of forfeiture of office, and the further penalty of \$400 to be recovered by any person who sues for the same by action in the High Court; and one half of such pecuniary penalty shall belong to the party suing, and the other half to Her Majesty for the use of the Province.

Return.

67. The Accountant shall yearly and on or before the 15th day of January in every year transmit to the Lieutenant-Governor in Council a just, true and faithful statement, shewing the state of the "Account of official Guardian *ad litem*" upon the 31st day of the preceding December.

Provisions as
to property
vested in Ac-
countant.

68. In all cases in which any interest in real or personal estate, effects or property is vested in the Accountant for the time being of the High Court, as such Accountant and in respect of his office, all such real and personal estate, effects and property whatsoever, upon the death, resignation, or removal from office of each and every Accountant of the said Court from time to time, and as often as the case happens, and the appointment of a successor takes place, shall, subject to the same trusts as the same were respectively subject to, vest in the succeeding Accountant by force of this Act.

(2) In case of there being at any time no Accountant of the High Court, all mortgages, stocks, funds, annuities and securities whatsoever theretofore standing in the name of any Accountant, or in his custody or power in respect of his office, together with all the interest and estate of the said Accountant in the lands and premises embraced in such mortgages or other securities, shall become and be, by force of this Act, vested in such other officer as the High Court, by general order, may, from time to time, direct, subject to the same trusts as they may then respectively be subject to.

(3) All mortgages, stocks, funds, annuities and securities whatsoever, at the time of the commencement of this Act, standing in the name of the Accountant of the Court of Chancery, or of the Referee in Chambers, or any other officer named by the Court for the purpose under the authority of the 31st section of the Chancery Act, or in his custody or power as such Accountant, Referee in Chambers or other officer aforesaid, together with all the interest and estate of the said Accountant,

Accountant, Referee in Chambers or other officer, in the lands and premises embraced in such mortgages or other securities, shall become and be vested in the Accountant of the High Court for the time being, as such Accountant, or in such other officer as the Court by general order may from time to time direct, subject to the same trusts as they may then respectively be subject to.

69. The expenses of the Accountant's Office including all salaries shall, from the 1st day of April, 1881, be the first charge on the income arising from the funds in Court. Expenses of Accountant's Office.

70. The Lieutenant-Governor may from time to time appoint one of the officers of the High Court, or some other competent person, to inspect the offices of the Sheriffs, Local Masters, Deputy Registrars, Deputy Clerks of the Crown, Local Registrars of the High Court, Registrars of Surrogate Court, Clerk of the Peace, and County Crown Attorneys, and Clerks of the County Court, in the respective Counties of the Province. Inspector of Sheriffs and other offices.

The duty of the Inspector for the time being shall be:—

- (1) To make a personal inspection of the said offices and of the books and Court papers belonging thereto respectively;
- (2) To see that proper books are provided, that they are in good order and condition, that the proper entries and records are made therein in a proper manner, at proper times, and in a proper form and order, and that the Court papers and documents are properly classified and preserved;
- (3) To ascertain that the duties of the officers are duly and efficiently performed;
- (4) To see that proper costs and charges only are allowed or exacted;
- (5) To ascertain that proper security has been given by any officer required by law to give security;
- (6) To ascertain whether uniformity of practice prevails in the several offices of the High Court and in the County and Surrogate Courts;
- (7) To report upon all such matters, as expeditiously as may be, to the Lieutenant-Governor.

Inquiries by
Inspector.

71. When the said Inspector has occasion to institute an inquiry into the conduct of any officer in relation to his or their official duties or acts, it shall be lawful for the said Inspector to require such officer, or any other person or persons, to give evidence on oath; and for this purpose the said Inspector shall have the same power to summon such officers and other persons to attend as witnesses, to enforce their attendance, and to compel them to produce books and documents and give evidence, as any Court has in civil cases.

Books, etc., to
be produced
for inspection.

72. The said several officers shall, as often as required by the said Inspector, produce for examination and inspection all books and documents which are required to be kept by them, or which may hereafter be required to be kept by them; and shall report to the Inspector all such matters relating to any cause or proceeding as the Inspector shall require.

Powers of
Commission-
ers to admin-
ister oaths.

73. Every person who at the commencement of this Act shall be authorized to take recognizances of bail, or to administer oaths and take affidavits and affirmations, in any of the Courts whose jurisdiction is hereby vested in the High Court of Justice, shall be a commissioner for the said purposes in all causes and matters whatsoever which may from time to time be depending in the said High Court.

SOLICITORS.

Solicitors and
attorneys.

74. From and after the commencement of this Act all persons heretofore admitted as solicitors or attorneys of, or by law empowered to practise in, any Court the jurisdiction of which is hereby vested in the High Court of Justice, shall be called Solicitors of the Supreme Court of Ontario, and shall be entitled to the same privileges, and be subject to the same obligations, so far as circumstances will permit, as if this Act had not passed.

(2) All persons who from time to time, if this Act had not passed, would have been entitled to be admitted as solicitors or attorneys of, or been by law empowered to practise in, any such Courts, shall be entitled to be admitted on payment of the fees now required for admission to the Courts of Queen's Bench, Common Pleas and Chancery, and shall be so admitted by any Divisional Court, and shall be called Solicitors of the Supreme Court of Ontario, and shall, as far as circumstances permit, be entitled as such solicitors to the same privileges and be subject to the same obligations as if this Act had not passed.

(3) Any solicitors or attorneys to whom this section applies shall be deemed to be officers of the said Supreme Court; and that Court, and the High Court of Justice

tice and the Court of Appeal respectively, or any Division or Judge thereof, may exercise the same jurisdiction in respect of such solicitors or attorneys as any one of the Superior Courts or a Judge thereof might, previously to the passing of this Act, have exercised in respect of any solicitor or attorney admitted to practise therein.

PART VI.

COUNTY COURTS AND JUDGES.

75. Section one of chapter 22 of the Acts of the Legislature of this Province, passed in the 32nd year of her Majesty's reign is repealed, and section 2 of chapter 15, of the Consolidated Statutes of Upper Canada shall not be affected by the said Act or by any other enactment of the Legislature of this Province heretofore passed and purporting to repeal the same. 32 Vic., c. 22, s. 1, repealed.

76. The Judges of the several County Courts shall be Judges of the High Court for the purposes of their jurisdiction in actions in the High Court; and in the exercise of such jurisdiction may be styled "Local Judges of the High Court," and shall, in all causes and actions in the High Court, have, subject to Rules of Court, power and authority to do and perform all such acts, and transact all such business as the Judges of the County Courts have now in actions in the Courts of Queen's Bench and Common Pleas; and to do and perform such other acts and business in respect to matters and causes in and before the High Court as they may by Rules of Court in that behalf from time to time be empowered to do. Local Judges of High Court.

77. Every County and Division Court shall as regards all causes of action within its jurisdiction for the time being, have power to grant and shall grant in any proceeding before such court such relief, redress, or remedy, or combination of remedies, either absolute or conditional, and shall in every such proceeding give such and the like effect to every ground of defence or counter-claim, equitable or legal (subject to the provision next hereinafter contained), in as full and ample a manner as might and ought to be done in the like case by the High Court of Justice. Powers of County and Division Courts.

78. Where in any proceeding before any such County or Division Court any defence or counter-claim of the defendant involves matter beyond the jurisdiction of the court, such defence or counter-claim shall not affect the competence or the duty of the court to dispose of the whole matter in controversy so far as relates to the demand of the plaintiff and the defence thereto, but Counter-claims in County or Division Courts, and transfers therefrom.

but no relief exceeding that which the court has jurisdiction to administer shall be given to the defendant upon any such counter-claim:

Proviso.

Provided always, that in such case it shall be lawful for the High Court or any Division or Judge thereof, if it shall be thought fit, on the application of any party to the proceeding, to order that the whole proceeding be transferred from such court to the High Court, or to any Division thereof; and in such case the Record in such proceeding shall be transmitted by the Clerk or other proper officer, of the County or Division Court to the said High Court; and the same shall thenceforth be continued and prosecuted in the said High Court as if it had been originally commenced therein.

**Surrogate
Court fees of
Judges.**

79. The Lieutenant-Governor in Council may, with the consent of any County Court or Surrogate Court Judge, commute the fees payable to him under the Surrogate Courts Act for a fixed annual sum; such sum not to exceed the income derived from such fees in some preceding year; and any sum so fixed may, as vacancies occur, be rescinded, or may be varied and the amount increased or diminished; provided that in no case shall any Order in Council name a sum exceeding the receipts for fees during some preceding year.

- (2) In case of such commutation, the like sums and fees heretofore payable to such Judge shall continue to be payable, and shall form part of the Consolidated Revenue Fund of this Province, and shall be payable in stamps, subject to the provisions of the Act respecting Law Stamps.
- (3) Where there is no commutation and the fees aforesaid exceed the sum of \$1,000 in any year, the excess shall be received by the Registrar and paid over to the Treasurer of the Province for the uses of the Province.
- (4) The preceding sub-section shall not apply so as to reduce the amount payable to the Judge in any year to a sum less than the aggregate amount of the fees payable to him for such year in respect of fees provided for by the Consolidated Statutes of Upper Canada, chapter 16, schedule "B." and exclusive of the additional fees assigned to Surrogate Judges by the Act passed in the fortieth year of Her Majesty's reign, chapter 7, schedule "A" (65).
- (5) Out of the excess aforesaid a sum not exceeding \$600 may on the authority of an Order in Council be paid to the Junior Judge of the County (if any).
- (6) This section, and the several sub-sections thereof, shall operate from the first day of January last.

80. The several rules of law enacted and declared by this Act shall be in force and receive effect in all courts whatsoever in Ontario, so far as the matters to which such rules relate shall be respectively cognizable by such courts.

Rules of law
to apply to In-
ferior Courts.

PART VII.

MISCELLANEOUS PROVISIONS.

81. Every Order in Council determining the commutation allowance or the salary of any Judge, Official Guardian or other officer, under the authority of this Act, shall be laid before the House of Assembly forthwith, if the Legislature is in session at the date of the Order, and if the Legislature is not then in session, the Order is to be laid before the said House within the first seven days of the session next after the Order in Council is made;

Orders in
Council as to
allowances and
salaries sub-
ject to
ratification
by Legislative
Assembly.

(a) In case the Assembly at the said session, or, if the session does not continue for three weeks after the said Order is laid before the House, then at the ensuing session of the Legislature, disapprove by resolution of such Order in Council, either wholly, or so far as relates to any of the persons therein named, the Order in Council, so far as so disapproved of, shall have no effect from the time of such resolution being passed.

82. All books, documents, papers and chattels in the possession of any Court the jurisdiction of which is hereby vested in the High Court of Justice, or of any officer or person attached to any such Court, as such officer, or by reason of his being so attached, shall be dealt with by such officer or person in such manner as the High Court of Justice or the Supreme Court may by order direct; and any person failing to comply with any order made for the purpose of giving effect to this section shall be guilty of a contempt of the Supreme Court.

Transfer of
books and
papers.

83. Upon proof to the satisfaction of the Judge presiding at the sittings of any Court of the service of a subpoena upon any witness, who fails to attend, or to remain in attendance in accordance with the requirements of the subpoena, and that a sufficient sum for his fees as a witness had been duly paid or tendered to him, and that the presence of such witness is material to the ends of justice, the said Judge may, by his warrant, cause such witness to be apprehended and forthwith brought before him or any other Judge who may thereafter preside at such sittings, to give evidence, and in order to secure his presence as a witness, such witness may be taken on such warrant before the presiding Judge and detained in the custody of the person to whom the warrant is directed, or otherwise, as the presiding Judge may order, until

Compelling
attendance of
witnesses.

his

his presence, as such witness, shall be required, or, in the discretion of the said Judge, he may be released on a recognizance (with or without sureties), conditioned for his appearance to give evidence.

Form of
warrant.

84. Such warrant may be similar to form No. 184, in appendix J hereto, and may be directed to any sheriff or other officer of the court, or to any constable, and may be executed in any part of Ontario.

Saving as to
circuits, etc.

85. This Act is not intended to affect, and shall not affect, the issue of any Commissions of Assize, Nisi Prius, Oyer and Terminer, Gaol Delivery, or other commission for the discharge of civil or criminal business on circuit or otherwise; or the authority of a Judge or a retired Judge of any of the Superior Courts, or a Judge of a County Court, or one of Her Majesty's Counsel learned in the law, to preside without any commission at any Court of Assize, Oyer and Terminer, and General Gaol Delivery, or at a Court held under this Act in the exercise of the jurisdiction now belonging to Courts of Assize, Oyer and Terminer, and General Gaol Delivery, or the authority of any such Judge or retired Judge of a Superior or County Court, or Counsel learned in the law to hold any sitting for the hearing of causes; and any such Judge or Counsel shall after the commencement of this Act, have the same authority to preside as aforesaid, or to hold any sitting of the High Court for the hearing of causes in the High Court respectively, which such Judge or Counsel now has to preside at Courts of Assize, Oyer and Terminer, and General Gaol Delivery, or to hold a sitting of the Court of Chancery for the hearing of causes; and any such Judge or Counsel when presiding as aforesaid with or without a commission, or when holding any sitting as aforesaid, shall be deemed to constitute a Court.

Judgment by
Judge who
resigns or is
transferred
to another
Court after
case heard.

86. Where a Judge of one of the Superior Courts resigns or is transferred to another of the said Courts after the passing of this Act, or where after the commencement of this Act a Judge of the Supreme Court resigns his office, and any case which has been fully heard by such Judge, either alone or jointly with other Judges, stands for judgment, he may give judgment therein as if he was still a Judge of the same Court, and any such judgment shall be of the same force and validity as if he were still such Judge, provided that such judgment of the Judge be delivered within six weeks after his said resignation or transfer.

This act not to
apply to cer-
tain matters.

87. Nothing in this Act, or in the Schedule thereto, affects or is intended to affect, the practice or procedure in criminal matters, or matters connected with Dominion Controverted Elections, or proceedings on the Crown or Revenue side of the Queen's Bench or Common Pleas Divisions.

88. It shall not be necessary for any Justice of the Peace heretofore or hereafter appointed, for the temporary judicial district of Nipissing, to possess any property qualification whatever, or to be a stated resident within the said district. Justices of the Peace in Nipissing, qualification of.

89. The provisions of the Prison and Asylum Inspection Act, chapter 224 of the Revised Statutes, as to the inspection, construction and repairing of Gaols, shall apply to Court Houses, and the said provisions shall so far as applicable be read as if the words Court House or Court Houses were inserted after the words Gaol or Gaols in the said Act. Inspection, etc., of Court Houses.

REPEAL.

90. From and after the commencement of this Act there shall be repealed, so far as relates to this Province:— Repeal.

- (1) Sections 15 and 16 of a certain Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the fifth and sixth years of the reign of His Majesty King William the Fourth, and chaptered 62; without prejudice to anything done or suffered before the said commencement under the enactments hereby repealed.
- (2) Any enactment inconsistent with this Act.
- (3) Section 3 of the Act respecting the Heir, Devisee and Assignee Commission, chapter 25 of the Revised Statutes, so far as relates to any Judge, who was not appointed until after the 7th of March, 1879, or who may be hereafter appointed.

INTERPRETATION.

91. In the construction of this Act and of the Rules, unless there is anything in the subject or context repugnant thereto, the several words hereinafter mentioned shall have, or include the meanings following (that is to say): Interpretation of terms.

“Rules of Court” shall include forms.

“Cause” shall include any action, suit, or other original proceeding between a plaintiff and a defendant.

“Suit” shall include action.

“Action” shall mean a civil proceeding commenced by writ, or in such other manner as may be prescribed by rules of Court; and shall not include a criminal proceeding by the Crown.

“Plaintiff” shall include every person asking any relief (otherwise than by way of counter-claim as a defendant)

D

ant) against any other person by any form of proceeding, whether the same be taken by action, suit, petition, motion, summons, or otherwise.

“Petitioner” shall include every person making any application to the Court, either by petition, motion, or summons, otherwise than as against any defendant.

“Defendant” shall include every person served with any writ of summons or process, or served with notice of, or entitled to attend, any proceedings.

“Party” shall include every person served with notice of, or attending any proceeding, although not named on the Record.

“Matter” shall include every proceeding in the Court not in a cause.

“Pleading” shall include any petition or summons, and shall also include the statement in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to any counter-claim of a defendant.

“Judgment” shall include decree.

“Order” shall include rule.

“Oath” shall include solemn affirmation and statutory declaration.

“Existing” shall mean existing at the time appointed for the commencement of this Act.

“Proper Officer” shall, unless and until any rule to the contrary is made, mean an officer to be ascertained as follows:—

(a) Where any duty to be discharged under this Act or the Rules is a duty which has heretofore been discharged by any officer, such officer shall continue to be the proper officer to discharge the same, until otherwise provided by Rule ;

(b) Where any new duty is under this Act or the Rules to be discharged, the proper officer to discharge the same shall be such officer, having previously discharged analogous duties, as may from time to time be directed to discharge the same, in the case of an officer of the High Court of Justice, not attached to any Division, by the President of the High Court, and in the case of an officer attached to any Division, by the President of the Division.

SCHEDULE

SCHEDULE.

RULES OF COURT.

[NOTE.—When no other provision is made by the Act or these Rules, the present procedure and practice remain in force.]

ORDER I.

FORM AND COMMENCEMENT OF ACTION.

1. All actions which have hitherto been commenced by writ ^{Action.} in the Superior Courts of Common Law, and all suits which have hitherto been commenced by bill or information in the Court of Chancery, shall be instituted in the High Court of Justice by a proceeding to be called an action.

2. With respect to interpleader, the procedure and practice ^{Interpleader.} now used by Courts of Common Law under the Interpleader Act R. S. O., chapter 54, save as altered by any Act passed during the present Session of the Legislature, shall apply to all actions and to all the Divisions of the High Court of Justice, and the application by a defendant shall be made at any time after being served with a writ of summons and before delivering a defence.

3. The orders of the Court of Chancery numbered from 467 ³ to 487, and those numbered from 638 to 650, shall apply to all the Divisions of the High Court of Justice. ^{Certain Chy. orders to apply to all Divisions.}

4. All other proceedings in and applications to the High ⁴ Court may, subject to these Rules, be taken and made in the same manner as they would have been taken and made in any Court in which any proceeding or application of the like kind could have been taken or made if the Act had not been passed. In case a defendant is let in to defend under the 11th section of the Revised Statute respecting absconding debtors, the action shall proceed as in ordinary cases under the Act, subject to the provisions in other respects of the said Revised Statute. ^{Other proceedings.}

ORDER II.

WRIT OF SUMMONS AND PROCEDURE, &c.

1. Every action in the High Court shall be commenced by a writ ⁵ of summons, which shall be indorsed with a statement of the nature of the claim made, or of the relief or remedy required in the action, and specifying the Division of the High Court to which the action is assigned.

2. Any costs occasioned by the use of any more prolix or ⁶ other forms of writs and of indorsements thereon, than the forms hereinafter prescribed, shall be borne by the party using the same unless the Court shall otherwise direct. ^{Costs of improper form.} 3.

⁷
Form of Writ

3. Where the service is to be made in Ontario, the writ of summons for the commencement of an action shall, except in the cases in which any different form is hereinafter provided, be in Form No. 1 in Appendix (A) hereto, with such variations as circumstances may require.

⁸
Writ and notice for service out of jurisdiction.

4. Where there is jurisdiction in any of the Superior Courts to proceed with a suit on a service out of Ontario, the writ of summons to be so served shall be in Form No. 2, in Appendix (A) hereto, with such variations as circumstances may require. Where a defendant is not a British subject, and is not in British Dominions, notice of the writ of summons is to be served in lieu of service of the writ, and such notice shall be in Form No. 3 in the same Part, with such variations as circumstances may require.

⁹
Date and teste of Writ.

5. Every writ of summons and every other writ shall bear date on the day on which the same is issued, and shall be tested in the name of the President of the High Court of Justice, and shall require the defendant to appear thereto in 10 days after service, if the service is to be made in Ontario.

¹⁰
Amendment of Writ.

6. The Court or a Judge may, at any stage of the proceedings, allow the plaintiff to amend the writ of summons, in such manner and on such terms, as may seem just.

ORDER III.

INDORSEMENTS OF CLAIM, &c.

¹¹
Precise statement not essential.

Amendment.

1. In the indorsement required by Order 2, Rule 1, it shall not be essential to set forth the precise ground of complaint, or the precise remedy or relief to which the plaintiff considers himself entitled. The plaintiff may by leave of the Court or Judge amend such indorsement so as to extend it to any other cause of action or any additional remedy or relief.

¹²
Form of indorsement.

2. The indorsement of claim may be to the effect of such of the forms in Part II. of Appendix (A) hereto as shall be applicable to the case, or if none be found applicable then of such other similarly concise form as the nature of the case may require.

¹³
Where action is in representative capacity.

3. If the plaintiff sues in a representative capacity, or if the defendant or any of the defendants is sued in a representative capacity, the indorsement shall shew, in manner appearing by the statement in Appendix (A) hereto, Part II., sec. V., or by any other statement to the like effect, in what capacity the plaintiff or defendant sues or is sued.

4. In all actions where the plaintiff seeks merely to recover a debt or liquidated demand in money payable by the defendant, with or without interest,—arising upon a contract, express or implied, as, for instance, on a bill of exchange, promissory note, cheque, or other simple contract debt, or on a bond or contract under seal for payment of a liquidated amount of money, or on a statute where the sum sought to be recovered is a fixed sum of money or in the nature of a debt, or on a guaranty, whether under seal or not, where the claim against the principal is in respect of such debt or liquidated demand, bill, cheque, or note, or on a trust,—the writ of summons may be specially indorsed with the particulars of the amount sought to be recovered, after giving credit for any payment or set-off.

14

Special indorsement.

5. Where the plaintiff's claim is for a debt or liquidated demand only, the indorsement, beside stating the nature of the claim, shall state the amount claimed for debt, or in respect of such demand, and for costs, respectively, and shall further state that upon payment thereof within 8 days after service, or, in case of a writ not for service within the jurisdiction, within the time allowed for appearance, further proceedings will be stayed. Such statement may be in the form in Appendix (A) hereto, Part II., sec. II. The defendant may, notwithstanding such payment, have the costs taxed, and if more than one-sixth shall be disallowed, the plaintiff's solicitor shall pay the costs of taxation.

15

Indorsement in cases of debt or liquidated demand.

6. In all cases of ordinary account, as, for instance, in the case of a partnership, or executorship, or ordinary trust account, where the plaintiff desires to have an account taken in the first instance, the writ of summons shall be indorsed with a claim that such account be taken. This rule does not apply to proceedings under Order I., Rule 3.

16

Indorsement of claim for account.

7. Where the claim is for the foreclosure of a mortgage or the sale of mortgaged property, and the plaintiff desires an order against a defendant for the immediate delivery of possession, or for immediate payment, the writ must, in addition to the ordinary notice, be indorsed with a further notice to the effect of such of the forms in Appendix (A) hereto, Part II., section VI., as are applicable to the case.

17

Indorsement in mortgage suits where immediate possession or payment desired.

8. Where a plaintiff sues by a solicitor, the writ of summons or notice in lieu of service of a writ of summons, shall be indorsed with the solicitor's name or firm and place of business, where writs, notices, petitions, orders, warrants and other documents, proceedings, and written communications may be left for him.

18

Address of plaintiff and of solicitor.

(a) Where any such solicitor is only agent of another solicitor, there shall be added to his name or firm and place of business the name or firm and place of business of the principal solicitor.

9.

19
Address of
plaintiff in
person.

9. Where a plaintiff sues in person, there shall be indorsed upon the writ of summons, or notice in lieu of service of a writ of summons, his place of residence and occupation.

(a) If his place of residence shall be more than 2 miles from the office out of which the first process in the cause shall be issued, there shall be indorsed also another proper place, to be called his address for service, which shall not be more than 2 miles from such office, where writs, notices, petitions, orders, warrants and other documents, proceedings, and written communications not requiring personal service may be left for him.

(b) If the writ or notice is not so indorsed, or if such address or place be more than 2 miles from the office aforesaid, then the opposite party shall be at liberty to proceed by posting up in such office all notices, petitions, orders, warrants and other documents, proceedings and written communications requiring service.

20
Plaintiff's
option as to
place of issue.

10. In any action whatever the plaintiff wherever resident may issue a writ of summons out of the proper office in Toronto, or in any County.

21
Officers to
issue Writs.

11. Writs of summons for the commencement of actions in the Queen's Bench and Common Pleas Divisions, shall be issued by the same officers as now issue like writs for the Courts of Queen's Bench and Common Pleas respectively, and shall be issued alternately in the Queen's Bench and Common Pleas Divisions, as the case may be, as heretofore in the said Courts. Writs for the commencement of actions in the Chancery Division shall be issued by the proper officers hitherto attached to the Court of Chancery. Writs issued by the Clerk of Records and Writs, or by a Deputy Registrar or Deputy Clerk of the Crown and Pleas need not be sealed or signed by the Clerk of the Process.

22
Statement as
to appearance.

12. In all cases there shall be a statement on the face of the writ of summons naming the office in which the defendants' appearance is to be entered.

23
Preparation of
writ.

13. Writs of summons shall be prepared by the plaintiff or his Solicitor, and may be written or printed, or partly written and partly printed.

24
Sealing and
issue of writ.

14. Every writ of summons shall be signed and sealed by the officer issuing the same, and shall thereupon be deemed to be issued.

25
Filing.

15. The plaintiff or his Solicitor may, on presenting any writ of summons for sealing, leave with the officer a copy, written or printed, or partly written and partly printed, of such

such writ and of all the indorsements thereon, and such copy shall be signed by or for the Solicitor leaving the same, or by the plaintiff himself, if he sues in person.

16. The proper officer shall make an entry of every writ of summons in a book to be called the Process Book, which is to be kept in the manner in which process books have heretofore been kept by the Clerks of the Crown and Pleas; and the action shall be distinguished by a number in the manner in which actions are now distinguished in such last mentioned books; and in case of any further proceeding in the action, an entry thereof shall be made in another book to be called the Procedure Book, which is to be kept in the manner in which Procedure Books have heretofore been kept by the said Clerks.

26

Entry.

17. The plaintiff in any action may, at the time of, or at any time during 12 months after, the issuing of the original writ of summons, issue one or more concurrent writ or writs, each concurrent writ to bear teste of the same day as the original writ, and to be marked by the officer issuing the same with the word "concurrent," in the margin, and the date of issuing the concurrent writ: Provided always, that such concurrent writ or writs shall only be in force for the period during which the original writ in such action shall be in force.

27

Plaintiff may
issue concurrent writs.

18. A writ for service within the jurisdiction may be issued and marked as a concurrent writ with one for service, or whereof notice in lieu of service is to be given, out of the jurisdiction; and a writ for service, or whereof notice in lieu of service is to be given out of the jurisdiction, may be issued and marked as a concurrent writ with one for service within the jurisdiction.

28

Concurrent writs for service within and without the jurisdiction.

ORDER IV.

DISCLOSURE BY SOLICITORS AND PLAINTIFFS.

1. Every solicitor whose name shall be signed to or indorsed on any writ of summons shall, on demand in writing made by or on behalf of any defendant who has been served therewith or has appeared thereto, declare forthwith whether such writ has been issued by him or with his authority or privity.

29

Whether writ issued by his authority.

(a) If he answers in the affirmative, then he shall also, in case the Court or a Judge so directs, disclose in writing, within a time to be limited by such Court or Judge, the profession or occupation, and place of abode of the plaintiff, on pain of being guilty of a contempt of the Court from which such writ appears to have issued.

(b) If such solicitor shall declare that the writ was not issued by him or with his authority or privity, all proceedings upon the

the same shall be stayed, and no further proceedings shall be taken thereupon without leave of the Court or a Judge.

30

Names and addresses of members of firm suing as partners.

2. Where a writ is sued out by partners in the name of their firm, the plaintiffs or their solicitor, shall, on demand in writing by or on behalf of any defendant, declare forthwith the names and places of residence of all the persons constituting the firm.

(a) If the plaintiffs or their solicitor shall fail to comply with such demand, all proceedings in the action may, upon an application for that purpose, be stayed upon such terms as the Court or a Judge may direct.

(b) Where the names of the partners are so declared, the action shall proceed in the same manner, and the same consequences in all respects shall follow, as if they had been named as the plaintiffs in the writ; but all proceedings shall, nevertheless, continue in the name of the firm.

ORDER V.

RENEWAL OF WRIT.

31

Currency of writ.

1. No original writ of summons shall be in force for more than 12 months from the day of the date thereof, including the day of such date; but if any defendant therein named shall not have been served therewith, the plaintiff may, before the expiration of the 12 months, apply to a Judge for leave to serve the writ after, and notwithstanding the lapse of, the said period.

(a) The Judge, if satisfied that reasonable efforts have been made to serve such defendant, or for other good reason, may order that the service shall be good if made within 12 months from the date of the order; and so from time to time during the currency of the further period allowed.

(b) The writ shall in such case be renewed by being marked with the date of the day, month and year of such renewal; such renewal to be so marked by the proper officer, upon delivery to him by the plaintiff or his solicitor of a memorandum in Form No. 76, in Appendix E.

(c) In such case the original writ shall be available, to prevent the operation of any statute whereby the time for the commencement of the action is limited and for all other purposes, from the date of the original issue of the writ.

32

Evidence of renewal.

2. The production of a writ of summons purporting to have been renewed in manner aforesaid shall be sufficient *prima facie* evidence

evidence for all purposes, of the writ having been so renewed, and of the commencement of the action as of the date of the issue of the writ in manner provided as aforesaid.

ORDER VI.

SERVICE OF WRIT OF SUMMONS.

1.—*Mode of Service.*

1. No service of writ shall be required where the defendant by his solicitor accepts service, and undertakes to enter an appearance. 33
Undertaking to accept service.

2. Where service is required the writ shall, wherever it is practicable, be served by the same person and in the same manner as service is now made; and where personal service is required, if it be made to appear to the Court or Judge on affidavit that the plaintiff is from any cause unable to effect prompt personal service, the Court or Judge may make such order for substituted or other service, or for the substitution of notice for service, as may seem just. 34
Personal and substituted service.

2.—*On particular Defendants.*

3. A married woman shall be served in the same manner as a party to a suit or matter not under any disability is now served; and the like proceedings may be had on such service and with the like effect, as if the married woman were a *feme sole*. 35
Married Woman.

4. Where the action is for the administration or partition of an estate in which an infant is interested or where the action is for any purpose other than the recovery of money from an infant defendant personally, or of lands, goods or chattels, of which he is personally in possession, service on the official guardian shall be good service on the infant defendant if such infant defendant is resident in Ontario, at the time of such service. 36
Service on official guardian.

(a) If in such case there is more than one infant defendant, for whom service is to be made on the official guardian, one copy only need be so served.

(b) From the time of such service the official guardian shall become and be the guardian *ad litem* of the infant, unless and until the Court otherwise orders; and it shall be his duty forthwith to attend actively to the interests of the infant in the action, and for that purpose to communicate with all proper parties, including the father or guardian (if any) of the infant, and also the person with whom or under whose

whose care the infant resides, in case such person is not the infant's father or guardian; and the guardian is to ~~make such~~ other inquiries and to take such other proceedings as the interests of the infant may require.

(c) Any person interested may move before a judge in Chambers, on such material as he may think proper, for an order appointing a guardian other than the official guardian so served; whereupon such order as may be considered most conducive to the interests of the infant shall be made, and a copy of the order shall forthwith be served on the official guardian.

37
Service on
infant
personally.

5. Where an action is brought against an infant defendant, for the ~~recovery of money from him personally or for the recovery of~~ lands, goods, or chattels of which he is personally in possession, service shall be made on the infant personally, and one copy of the writ shall also be posted (prepaid) to, or delivered at the office of, the official guardian.

38
Lunatic.

6. Where a lunatic or person of unsound mind not so found by inquisition or judicial declaration, is a defendant to the action, service on the committee of the lunatic, or on the person with whom the person of unsound mind resides, or under whose care he or she is, shall, unless the Court or Judge otherwise orders, be deemed good service on such defendant.

39
Guardian *ad*
litem.

7. No further proceedings are to be taken against such a defendant who has no committee, until a guardian *ad litem* is appointed.

3.—On Partners and other Bodies.

40
Partners.

8. Where partners are sued in the name of their firm, the writ shall be served either upon any one or more of the partners, or, at the principal place within Ontario of the business of the partnership, upon any person having at the time of service the control or management of the partnership business there; and, subject to the rules hereinafter contained, such service shall be deemed good service upon the firm.

41
Person doing
business under
name of firm.

9. Where one person carrying on business in the name of a firm apparently consisting of more than one person, shall be sued in the firm name, the writ may be served at the principal place within Ontario of the business so carried on upon any person having at the time of service the control or management of the business there; and subject to any Rules of Court, such service shall be deemed good service on the person so sued.

42
Corporations.

10. Where, by any statute, provision is made for service of any writ of summons, bill, petition, or other process upon any corporation,

corporation, or any society or fellowship, or any body or number of persons, whether corporate or otherwise, every writ of summons may be served in the manner so provided.

4.—*In particular Actions.*

11. Service of a writ of summons in an action to recover land ⁴³ may, in case of vacant possession, ~~when it cannot otherwise be~~ ^{Action to recover land.} effected, be made by ~~posting a copy of the writ upon the door~~ of the dwelling-house or other conspicuous part of the property.

5.—*Generally.*

12. The person serving a writ of summons shall, ~~within~~ ⁴⁴ ~~3 days at most after such service, indorse on the writ the~~ ^{Indorsement of service.} ~~day of the month and week of the service thereof;~~ otherwise the plaintiff shall not be at liberty, in case of non-appearance, to proceed by default without the leave of a Judge, such leave to be obtained at the cost of the plaintiff, and such cost to be in no event charged against the defendant.

(a) Every affidavit of service of such writ shall mention the day on which such indorsement was made.

ORDER VII.

SERVICE OUT OF ONTARIO.

1. Service out of Ontario of a writ of summons ⁴⁵ OR ^{Service out of Ontario:} notice of a writ of summons may be allowed by the Court or a Judge in the following cases:— ^{in what cases.}

(a) Where the ~~whole or any part of the subject-matter of the~~ action is land, stock, or other property, situate within Ontario, or is any act, deed, will, or thing affecting such land, stock or property;

(b) Where the contract, which is sought to be enforced or rescinded, dissolved, annulled, or otherwise affected in any such action, or for the breach whereof damages or other relief are or is demanded in such action, was made or entered into within Ontario;

(c) Where there has been a breach within Ontario of any contract wherever made;

(d) Where any action or thing sought to be restrained or removed, or for which damages are sought to be recovered, was or is to be done, or is situate, within Ontario;

(e)

Procedure
in case of
neglect to ap-
pear.

(e) Where the action is upon a contract or judgment though the same be not within any of the four classes already enumerated, but it appears to the satisfaction of the Court or a Judge that the defendant has assets in Ontario of the value of \$200 at least which may be rendered liable to the judgment in case the plaintiff should recover judgment in the action; and if the defendant does not appear, the Court or a Judge is to give any directions which the Court or Judge from time to time sees fit as to the manner of proceeding in the action, and the conditions on which the same may be proceeded with; and shall require the plaintiff before obtaining judgment to prove his claim and the amount of debt or damages (if any) to the satisfaction of the Court or Judge, and in such mode as the Court or Judge, having reference to the nature of the case, may direct.

46
Time for
entering ap-
pearance and
delivering
defence.

2. Where a defendant is served out of Ontario he shall have the time following for entering his appearance and delivering his defence, and both proceedings shall be taken within the time named.

(a) If the defendant is served within any part of the Dominion of Canada (other than Ontario, Manitoba, Keewatin or the North-West Territories, or British Columbia,) or within the United States of America, he is to have 6 weeks after such service.

(b) If served within any part of the United Kingdom (including the Isle of Man and the Channel Islands), or of Manitoba, Keewatin or the North-West Territories, British Columbia, or Newfoundland, he is to have 8 weeks after such service.

(c) If served elsewhere than within the limits above designated, he is to have 12 weeks after such service.

(d) The writ of summons in such case may be in the form set forth in Appendix (A), and the statement of claim is to be served therewith.

47
Saving of
existing
jurisdiction.

3. The preceding rules of this Order are not intended to interfere with or affect the powers of the High Court, or a Judge thereof in the exercise of the jurisdiction heretofore possessed by any or either of the courts hereby consolidated, to direct on application in that behalf, that service in any other manner may be good service, or that the time for defending shall be other than the time above named, or to give any special or other direction as respects proceeding against a defendant out of Ontario.

48
Service made
without pre-
vious order
may be
allowed.

4. It shall not be necessary before serving the writ, or notice of the writ, to apply to the Court or Judge to allow the service; but in case proof is given to the satisfaction of the Court or Judge

Judge that the service was duly made and that the case was a proper one for service out of the Province under the preceding rules, the service shall be allowed.

5. Notice in lieu of service shall be given in the manner in which writs of summons are served. ⁴⁹ Service of notice in lieu of writ.

ORDER VIII.

APPEARANCE, &C.

1. All proceedings to final judgment in actions shall be carried on in the office from which the writ of summons was issued, except where by any Rule of Court it may be otherwise provided, or where a Court or Judge shall otherwise direct. ⁵⁰ Appearance, where entered.

2. A defendant shall enter his appearance to a writ of summons by delivering to the proper officer a memorandum in writing, dated on the day of delivering the same, and containing the name of the defendant's solicitor, or stating that the defendant defends in person. ⁵¹ How entered

3. The solicitor of a defendant appearing by a solicitor shall state in such memorandum his place of business. ⁵² Address of Solicitor.

4. A defendant appearing in person shall state in such memorandum his address; and if he resides more than 2 miles from the office from which the writ of summons was issued, he shall state in such memorandum a place to be called his address for service, which shall not be more than 2 miles from such office. ⁵³ Address of defendant in person.

5. If the memorandum does not contain the address of the solicitor or the defendant (as the case may be) as required by the preceding rules, the memorandum shall not be received; and if such address shall be illusory or fictitious, the appearance may be set aside by the Court or a Judge, on the application of the plaintiff; and the plaintiff may be permitted, by the Court or a Judge, to proceed by posting up the proceedings in the office from whence the writ was issued. ⁵⁴ Where no address or improper address given.

6. The Memorandum of Appearance may be in the Form No. 77, Appendix (E), with such variations as the circumstances of the case may require. ⁵⁵ Form of memorandum.

(a) In case a defendant does not require the plaintiff to deliver a statement of claim he shall so state in his memorandum of appearance, and in that case shall serve a copy of such appearance on the plaintiff.

56

Entry of memorandum.

7. Upon receipt of a Memorandum of Appearance, the officer shall forthwith enter the appearance in the Procedure Book.

57

Partners.

8. Where partners are sued in the name of their firm, they shall appear individually in their own names; but all subsequent proceedings shall, nevertheless, continue in the name of the firm.

58

Appearance by person sued under firm name.

9. Where any person carrying on business in the name of a firm apparently consisting of more than one person shall be sued in the name of the firm, he shall appear in his own name; but all subsequent proceedings shall, nevertheless, continue in the name of the firm.

59

Two or more defendants, etc.

10. If two or more defendants in the same action shall appear by the same solicitor and at the same time, the names of all the defendants so appearing shall be inserted in one memorandum.

60

Solicitor's undertaking.

11. A solicitor not entering an appearance in pursuance of his written undertaking so to do on behalf of any defendant shall be liable to an attachment.

61

When appearance may be entered and when notice is to be given.

12. A defendant may appear at any time before judgment. If he appear at any time after the time limited for appearance he shall, on the same day, give notice thereof to the plaintiff's solicitor, or to the plaintiff himself if he sues in person, and he shall not, unless the Court or a Judge otherwise orders, be entitled to any further time for delivering his defence, or for any other purpose, than if he had appeared according to the writ; and if the defendant appears after the time appointed by the writ, and omits to give such notice of his appearance, the plaintiff may proceed as in case of non-appearance.

62

Appearance without leave by person not named as a defendant.

13. Any person not named as a defendant in the writ of summons for the recovery of land, may, without leave, appear and defend, by filing with his appearance an affidavit stating that he is in possession of the land either by himself or his tenant (as the case may be), and stating further, in case the possession is by his tenant, that the defendant named in the writ is his tenant. The affidavit may be in the form of affidavit numbered 33, in appendix C.

63

Appearance by landlord in action for land.

14. Where such affidavit is not filed, any person not named as a defendant in a writ of summons for the recovery of land, may, by leave of the Court or Judge, appear and defend, on filing an affidavit shewing that he is in possession of the land, either by himself or his tenant.

64

Form of appearance by landlord.

15. Any person appearing to defend an action for the recovery of land as landlord in respect of property whereof he is in possession in person or by his tenant, shall state in his appearance that he appears as landlord.

16.

16. Where a person not named as defendant in a writ of summons for the recovery of land enters an appearance according to either of the foregoing Rules, the appearance shall be entitled in the action against the party or parties named in the writ as defendant or defendants; and the person so entering an appearance shall forthwith give notice thereof to the plaintiff's solicitor, or to the plaintiff if he sues in person, and shall in all subsequent proceedings be named as a party defendant to the action; and if such person appears and omits to give notice of his appearance, the plaintiff may proceed as in case of non-appearance.

65

Notice of appearance by person not named as a defendant in writ.

17. Any person appearing to a writ of summons for the recovery of land shall be at liberty to limit his defence to a part only of the property mentioned in the writ, describing that part with reasonable certainty in his memorandum of appearance; or in a notice intituled in the cause and signed by him or his solicitor, such notice to be served within 4 days after appearance upon the solicitor whose name is indorsed on the writ, if any; and if none, then filed in the proper office; and an appearance where the defence is not so limited shall be deemed an appearance to defend for the whole.

66

Limited appearance in action for land.

Notice.

18. The notice to be served as mentioned in the last preceding Rule may be in the Form No. 14 in Appendix (B) hereto, with such variations as circumstances may require.

67

Form of notice.

19. Any person appearing to a writ of summons in other cases may limit his defence to the question of the amount to which the plaintiff is entitled, and in that case may in his appearance, or by notice served within 4 days thereafter, state that he disputes only the amount claimed by the plaintiff; and he need not file any further defence for the purpose of disputing such amount; and the plaintiff is to proceed as if the defendant had filed a defence disputing the amount of the claim. The notice disputing the amount of the claim may be in the Form No. 15, in Appendix (B) hereto, with such variations as circumstances may require.

68

Limitation of defence to question of amount only.

ORDER IX.

DEFAULT OF APPEARANCE.

1. Where no appearance has been entered to a writ of summons for a defendant who is a person of unsound mind not so found by inquisition, or judicial declaration in lieu of an inquisition, the plaintiff may apply to the Court or a Judge for an order that the official guardian or some other proper person be assigned guardian of such defendant, by whom he may appear and defend the action.

69

By person of unsound mind.

(a)

(a) But no such order shall be made unless it appears on the hearing of such application that the writ of summons was duly served, and that notice of the application was, after the expiration of the time allowed for appearance, and at least 6 clear days before the day in the notice named for hearing the application, served upon, or left at the dwelling-house of, the person with whom or under whose care such defendant was at the time of serving such writ of summons.

70

By Infants.

2. In case of an infant defendant, who has been served with a writ of summons, otherwise than by the same being served on the official guardian, if no guardian *ad litem* is appointed within 7 days after the time for appearance had expired, the plaintiff may serve the official guardian with notice of the said particulars; whereupon from the time of such service the official guardian shall become and be the guardian *ad litem* of the infant, unless and until the Court otherwise orders; and it shall be his duty forthwith to attend actively to the interests of the infant in the action, and for that purpose to communicate with all proper parties, including the father or guardian (if any) of the infant, and also the person with whom or under whose care the infant resides, in case such person is not the infant's father or guardian; and the guardian is to make such other inquiries and take such other proceedings as the interests of the infant may require.

71

Proceedings
in default of
appearance.

3. Where any defendant fails to appear to a writ of summons and the plaintiff is desirous of proceeding upon default of appearance under any of the following Rules of this Order, or under Order 11, Rule 1, he shall, before taking such proceeding upon default, file an affidavit of service, or of notice in lieu of service, or the undertaking of the defendant's solicitor accepting service and agreeing to enter an appearance, with an affidavit verifying the undertaking filed, as the case may be.

72

Where writ
specially in-
dorsed.

4. In case of non-appearance by the defendant where the writ of summons is specially indorsed under Order 3, Rule 4, the plaintiff may sign final judgment for any sum not exceeding the sum indorsed on the writ, together with interest at the rate specified, if any, to the date of the judgment, and a sum for costs, and the plaintiff may, at the expiration of 8 days from the last day for appearance, and not before, issue execution upon such judgment; but it shall be lawful for the Court or a Judge to set aside or vary such judgment upon such terms as may seem just.

73

Where several
defendants.

5. Where there are several defendants to a writ specially indorsed for a debt or liquidated demand in money under Order 3, Rule 4, and one or more of the defendants appear to the writ and others of them do not appear, the plaintiff may enter final judgment against such as have not appeared, and may issue

issue execution upon such judgment, without prejudice to his right to proceed with his action against such as have appeared.

74

6. Where the defendant fails to appear to the writ of summons and the writ is not specially indorsed, but the plaintiff's claim is for a debt or liquidated demand only, no statement of claim need afterwards be delivered, but the plaintiff may file an affidavit of service of the summons, or of notice in lieu of service, as the case may be, and file and serve a statement of the particulars of his claim in respect of the causes of action stated in the indorsement upon the writ, and may, after the expiration of 8 days, enter final judgment for the amount shown thereby, and costs to be taxed, provided that the amount shall not be more than the sum indorsed upon the writ, besides costs.

Where writ not specially indorsed.

(a) In such case the plaintiff is not to be entitled to the costs of the statements of the particulars of his claim, unless the taxing officer is notified that there was good reason for not specially indorsing the writ, so as to render unnecessary filing and serving such statements.

75

7. Where the defendant fails to appear to the writ of summons and the plaintiff's claim is not for a debt or liquidated demand only, but for detention of goods and pecuniary damages, or either of them, no statement of claim need be delivered, but interlocutory judgment may be entered, and the value of the goods and the damages, or the damages only, as the case may be, in respect of the causes of action disclosed by the indorsement on the writ of summons shall be assessed as hitherto, or at the County Court of the County in which the action is brought if the solicitors for all parties reside in such County; or the High Court or a Judge thereof, may order that the value and amount of damages, or either of them, shall be ascertained in any other way in which any question arising in an action may be tried.

Where claim for detention of goods and pecuniary damages.

76

8. In case no appearance shall be entered in an action for the recovery of land, within the time limited for appearance, or if an appearance be entered but the defence be limited to part only, the plaintiff shall be at liberty to enter a judgment that the person whose title is asserted in the writ shall recover possession of the land, or of the part thereof to which the defence does not apply.

Action for land.

77

9. Where the plaintiff has indorsed a claim for mesne profits, arrears of rent, or damages for breach of contract, upon a writ for the recovery of land, he may enter judgment as in the last preceding Rule mentioned, for the land; and may proceed as in the other preceding Rules of this order, as to such other claim so indorsed.

Assessment of damages in action for land.

78
Judgment on
præcipe in
certain
cases.

10. Where the action is in respect of a mortgage, and the plaintiff claims foreclosure or sale or redemption, or where the action is for the administration of an estate, or for a partition, the plaintiff shall be entitled to a judgment or order on præcipe to the Registrar, Deputy-Registrar, Local Registrar, or Clerk or Deputy-Clerk of the Crown and Pleas, as the case may be, on such evidence (if any) and in such cases (as nearly as may be), as provided for by the present practice of the Court of Chancery in that behalf.

79
Judgment
where plaintiff
not entitled to
judgment on
præcipe.

11. Where the action is for the foreclosure or redemption of a mortgage, or sale of mortgaged premises, if the plaintiff is not entitled to a judgment or order on præcipe, or would not according to the practice of the Court of Chancery be entitled on præcipe to such a judgment or order as he desires, he shall be entitled to the proper judgment or order, on notice or otherwise, according to the practice of the Court of Chancery where a cause is heard on an order to take the bill *pro confesso* or otherwise.

ORDER X.

LEAVE TO SIGN JUDGMENT WHERE WRIT SPECIALLY INDORSED.

80
Leave to sign
final judgment.

1. Where the defendant appears to a writ of summons specially indorsed, under Order 3, Rule 4, and the plaintiff is not entitled to a judgment or order, under the preceding Order, he may, on an affidavit made by himself, or by any other person who can swear positively to the debt or cause of action, verifying the cause of action, and stating that in his belief there is no defence to the action, serve the defendant with a notice of motion to shew cause before the Court or a Judge why the plaintiff should not be at liberty to sign final judgment for the amount so indorsed, together with interest, if any, and costs. A copy of the affidavit shall accompany the notice of motion. The Court or a Judge may thereupon, unless the defendant, by affidavit or otherwise, satisfy the Court or a Judge that he has a good defence to the action on the merits, or disclose such facts as may be deemed sufficient to entitle him to defend the action, make an order empowering the plaintiff to sign judgment accordingly.

81
Procedure.

2. The application by the plaintiff for leave to enter judgment under the last preceding Rule shall be made on notice returnable not less than 2 clear days after service.

82
Shewing
cause.

3. The defendant may shew cause against such application by offering to bring into Court the sum indorsed on the writ, or by affidavit. In such affidavit he shall state whether the defence he alleges goes to the whole or to part only, and if so, to what part, of the plaintiff's claim. And the Judge may,

may, if he thinks fit, order the defendant to attend and be examined upon oath; or to produce any books or documents or copies of or extracts therefrom.

4. In any case if it appears that the defence set up by the defendant applies only to a part of the plaintiff's claim, or that any part of his claim is admitted to be due, the plaintiff shall have judgment forthwith for such part of his claim as the defence does not apply to or as is admitted to be due, subject to such terms, if any, as to suspending execution, or the payment of any amount levied or any part thereof into Court by the sheriff, the taxation of costs, or otherwise, as the Judge may think fit. And the defendant may be allowed to defend as to the residue of the plaintiff's claim. ⁸³ Defence as to part.

5. If it appears to the Judge that any defendant has a good defence to the action, or ought to be permitted to defend the action, and that any other defendant has not such defence and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff shall be entitled to enter final judgment against the latter, and may issue execution upon such judgment without prejudice to his right to proceed with his action against the former. ⁸⁴ Where several defendants.

6. Leave to defend may be given unconditionally, or subject to such terms as to giving security, or otherwise, as the Court or a Judge may think fit. ⁸⁵ Leave to defend may be absolute or conditional.

ORDER XI.

APPLICATION FOR ACCOUNT, &C., WHERE WRIT INDORSED UNDER ORDER III. RULE 6.

1. In default of appearance to a writ indorsed under Order 3, Rule 6, and after appearance in a case in which the preceding Orders do not entitle the plaintiff to a judgment or order on præcipe or otherwise, then unless the defendant, by affidavit or otherwise, satisfy the Court or a Judge that there is some preliminary question to be tried, an order for the account claimed, with all directions now usual in the Court of Chancery in similar cases, shall be forthwith made. ⁸⁶ Action for account.

2. An application for such order as mentioned in the last preceding Rule shall be made on notice, and be supported by an affidavit filed on behalf of the plaintiff, stating concisely the grounds of his claim to an account. The application may be made at any time after the time for entering an appearance has expired. ⁸⁷ Application to be on notice.

3. But the preceding 2 rules are not to prevent orders for the administration of the estate real or personal of a deceased person, or sale. ⁸⁸ Orders for administration, partition or sale.

deceased person, or for the partition or sale of an estate from being obtained on motion without any previous notice or other preliminary proceeding, and in the manner provided for by the General Orders of the Court of Chancery in that behalf.

ORDER XII.

PARTIES.

89
Who may be
joined as
plaintiffs.

1. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative. And, without any amendment, judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person or persons who shall not be found entitled to relief, unless the Court in disposing of the costs of the action shall otherwise direct.

90
Substitution
and addition
of plaintiffs.

2. Where an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has been commenced in the name of the right plaintiff or plaintiffs, the Court or a Judge, if satisfied that it has been so commenced through a *bona fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, may order any other person or persons to be substituted or added as plaintiff or plaintiffs, upon such terms as may seem just.

91
Who may be
joined as
defendants.

3. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative. And, without any amendment, judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities.

92
Where defend-
ant not inter-
ested in all the
relief prayed.

4. It shall not be necessary that every defendant to any action shall be interested as to all the relief thereby prayed for, or as to every cause of action included therein; but the Court or a Judge may make such order as may appear just, to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in such action in which he may have no interest.

93
All or any
parties liable
on one con-
tract may be
joined.

5. The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes.

6.

6. Where in any action, whether founded upon contract or otherwise, the plaintiff is in doubt as to the person from whom he is entitled to redress, he may, in such manner as hereinafter mentioned, or as may be prescribed by any special order, join two or more defendants, to the intent that in such action the question as to which, if any, of the defendants is liable, and to what extent, may be determined as between all parties to the action. 94 Several defendants in cases of doubt.

7. Trustees, executors, and administrators may sue and be sued on behalf of, or as representing, the property or estate of which they are trustees or representatives, without joining any of the parties beneficially interested in the trust or estate, and shall be considered as representing such parties in the action; but the Court or a Judge may, at any stage of the proceedings, order any of such parties to be made parties to the action, either in addition to, or in lieu of, the previously existing parties thereto. 95 Trustees, executors and administrators.

8. Infants may sue as plaintiffs by their next friends, in the manner practised in the Court of Chancery before the passing of the Act; and may, in like manner, defend any action by their guardians appointed for that purpose, or by the official guardian, as the case may be. 96 Infants.

9. Married women may sue or defend, without their husbands and without next friends, in all cases relating to their separate estate, or to their separate engagements, contracts or torts; and also in suits for alimony; and in other cases by the leave of a Court or a Judge, on giving (in such other cases) such security (if any) for costs as the Court or a Judge may require. 97 Married women.

(a) In cases not thus provided for, married women may sue as plaintiffs by their next friends in manner practised in the Court of Chancery before the passing of the Act.

10. Where there are numerous parties having the same interest in one action, one or more of such parties may sue or be sued, or may be authorized by the Court to defend, in such action, on behalf of, or for the benefit of, all parties so interested. 98 Where parties are numerous.

11. In any case in which the right of an heir-at-law or of the next of kin, or of a class shall depend upon the construction which the Court may put upon an instrument, and it shall not be known or shall be difficult to ascertain who is or are such heir-at-law or next of kin or class, and the Court shall consider that in order to save expense or for some other reason it will be convenient to have the question or questions of construction determined before such heir-at-law, next of kin or class, shall have been ascertained by means of inquiry or otherwise, the Court may appoint some one or more person or persons to represent 99 Persons appointed to represent a class.

represent such heir-at-law, next of kin or class, and the judgment of the Court in the presence of such person or persons shall be binding upon the party or parties or class so represented.

100

Partners.

12. Any two or more persons claiming, or being liable, as co-partners, may sue or be sued in the name of their respective firms, if any; and any party to an action may in such case apply by summons to a Judge for a statement of the names of the persons who are co-partners in any such firm, to be furnished in such manner, and verified on oath or otherwise, as the Judge may direct.

101

Person trading
under firm
name.

13. Any person carrying on business in the name of a firm, apparently consisting of more than one person, may be sued in the name of such firm.

102

Rules of Court
of Chancery as
to parties.

14. Subject to the Act and these Rules, the provisions as to parties, contained in Orders 58, 59, 60 and 61 of the General Orders of the Court of Chancery, shall be in force as to actions in the High Court of Justice.

103

Misjoinder.

15. No action shall be defeated by reason of the misjoinder of parties, and the Court may in every action deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

(a) The Court or Judge may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court or a Judge, to be just, order that the name of any party, whether as plaintiff or as defendant improperly joined, be struck out, and that the name of any party, whether plaintiff or defendant, who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the action, be added.

(b) No person shall be added as a plaintiff suing without a next friend, or as the next friend of a plaintiff under any disability, without his own consent thereto.

(c) All parties whose names are so added as defendants shall be served with a notice in manner hereinafter mentioned, or in such manner as may be prescribed by any special order, and the proceedings as against them shall be deemed to have begun only on the service of such summons or notice.

104

How applica-
tion is to be
made.

16. Any application to add, or strike out, or substitute a plaintiff or defendant may be made to the Court or a Judge at any time before trial by motion, or at the trial of the action in a summary manner.

17.

17. Where a defendant is added, unless otherwise ordered by the Court or Judge, the plaintiff shall sue out an amended writ of summons, and serve the new defendant with such writ, or notice in lieu of service thereof, in the same manner as original defendants are served.

105

Amended writ
where new
defendant
added.

18. If a statement of claim has been delivered previously to such defendant being added, the same shall, unless otherwise ordered by the Court or Judge, be amended in such manner as the making such new defendant a party shall render desirable; and a copy of such amended statement of claim shall be delivered to such new defendant at the time when he is served with the writ of summons or notice, or afterwards within 4 days after his appearance.

106

Amended
statement of
claim.

19. Where a defendant is, or claims to be, entitled to contribution or indemnity, or any other remedy or relief, over against any other person, or where from any other cause it appears to the Court or a Judge that a question in the action should be determined, not only as between the plaintiff and defendant, but as between the plaintiff, defendant and any other person, or between any or either of them, the Court or a Judge may on notice being given to such last-mentioned person, make such order as may be proper for having the question so determined.

107

Contribution
or indemnity
between de-
fendants and
other persons.

20. Where a defendant is entitled to contribution, indemnity, or other remedy or relief over against any person not a party to the action, he may serve a notice to that effect ;

108

Notice to per-
sons not al-
ready parties.

(a) A copy of such notice shall be filed with the proper officer, and served on such person, according to the rules relating to the service of writs of summons ;

(b) The notice shall state the nature and grounds of the claim, and shall unless otherwise ordered by the Court or a Judge, be served within the time limited for delivering his statement of defence ;

(c) Such notice may be in the form or to the effect of the Form No. 18 in Appendix (B) hereto with such variations as circumstances may require, and therewith shall be served a copy of the statement of claim, or if there be no statement of claim, then a copy of the writ of summons in the action.

21. Where under Rule 19 of this Order it is made to appear to the Court or a Judge, at any time before or at the trial, that a question in the action should be determined, not only as between the plaintiff and defendant, but as between the plaintiff and the defendant and any other person, or between any or either of them, the Court or Judge, before or at the time of making the order for having such question determined, shall direct such notice to be given by the plaintiff at such time

109

Court may
direct notice
to be given.

time and to such person and in such manner as may be thought proper; and if made at the trial the Judge may postpone such trial as he may think fit.

110

Appearance
by third party

22. If a person not a party to the action, who is served as mentioned in Rule 20, desires to dispute the plaintiff's claim in the action as against the defendant on whose behalf the notice has been given, he must enter an appearance in the action within 8 days from the service of the notice; in default of his so doing, he shall be deemed to admit the validity of the judgment obtained against such defendant, whether obtained by consent or otherwise; provided always, that a person so served and failing to appear within the said period of 8 days, may apply to the Court or a Judge for leave to appear, and such leave may be given upon such terms, if any, as the Court or Judge shall think fit.

111

Direction as
to mode of de-
termining
questions in
action.

23. If a person not a party to the action served under these Rules appears pursuant to the notice, the party giving the notice may apply to the Court or a Judge for directions as to the mode of having the question in the action determined;

(a) The Court or Judge, upon the hearing of such application, may, if it shall appear desirable so to do, give to the person so served liberty to defend the action upon such terms as shall seem just, and may direct such pleadings to be delivered, or such amendments in any pleadings to be made, and generally may direct such proceedings to be taken, and give such directions, as to the Court or Judge shall appear proper for having the question most conveniently determined, and with respect to the mode and extent in or to which the person so served shall be bound or made liable by the decision of the question, and as to the costs of the proceedings.

112

Plaintiff not to
be delayed by
questions be-
tween defen-
dants.

24. A plaintiff is not to be unnecessarily delayed in recovering his claim by reason of questions between defendants in which the plaintiff is not concerned; and the Court or Judge is to give such direction as may be necessary to prevent such delay of the plaintiff, where this can be done, on terms or otherwise, without injustice to the defendants.

113

Service on in-
fant or person
of unsound
mind.

25. Where a person not already a party to a suit is to be served with notice of a judgment or order for the purpose of binding him as if he had been originally a party, and such person is an infant, or person of unsound mind not so found by inquisition or judicial declaration, the notice shall be served in the same manner as a writ of summons.

114

Parties to ad-
ministration
proceeding.

26. In any cause or matter for the administration of the estate of a deceased person, no party other than the executor or administrator shall, unless by leave of the Judge, be entitled to appear either in Court or in Chambers on the claim of any person

person not a party to the cause against the estate of the deceased in respect of any debt or liability. The Judge may direct any other party to the cause to appear, either in addition to or in the place of the executor or administrator, upon such terms as to costs or otherwise as he shall think fit.

ORDER XIII.

JOINDER OF CAUSES OF ACTION.

1. Subject to the following Rules, the plaintiff may unite in the same action and in the same statement of claim several causes of action; but if it appear to the Court or a Judge that any such causes of action cannot be conveniently tried or disposed of together, the Court or Judge may order separate trials of any of such causes of action to be had, or may make such other order as may be necessary or expedient for the separate disposal thereof.

115

What causes of action may be joined.

2. No cause of action shall, unless by leave of the Court or a Judge, be joined with an action for the recovery of land, except claims in respect of mesne profits or arrears of rent in respect of the premises claimed, or any part thereof, and damages for breach of any contract under which the same or any part thereof are or is held; and except claims in actions on mortgages, for the recovery of the mortgage money and for foreclosure or sale.

116

Action for recovery of land.

3. Claims by an assignee in insolvency as such shall not, unless by leave of the Court or a Judge, be joined with any claim by him in any other capacity.

117

Claims by assignee in insolvency.

4. Claims by or against husband and wife may be joined with claims by or against either of them separately.

118

Claims by or against husband and wife.

5. Claims by or against an executor or administrator as such may be joined with claims by or against him personally, provided the last mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor or administrator.

119

Claims by or against executor.

6. Claims by plaintiffs jointly may be joined with claims by them or any of them separately against the same defendant.

120

Joint and several claims.

7. The last 3 preceding Rules shall be subject to Rule 1 of this Order, and to the Rules hereinafter contained.

121

Power to order separate trial.

8. Any defendant alleging that the plaintiff has united in the same action several causes of action which cannot be conveniently disposed of in one action, may at any time apply to the Court or a Judge for an order confining the action to such of

122

Application to strike out.

of the causes of action as may be conveniently disposed of in one proceeding.

123
Order to strike
out pleadings.

9. If, on the hearing of such application as in the last preceding Rule mentioned, it shall appear to the Court or a Judge that the causes of action are such as cannot all be conveniently disposed of in one action, the Court or a Judge may order any of such causes of action to be excluded, and may direct the statement of claim, or, if no statement of claim has been delivered, the copy of the writ of summons and the indorsement of claim on the writ of summons, to be amended accordingly, and may make such order as to costs as may be just.

ORDER XIV.

ACTIONS BY AND AGAINST LUNATICS AND PERSONS OF UN SOUND MIND.

124
Insane
persons.

In all cases in which lunatics and persons of unsound mind, not so found by inquisition or judicial declaration, might respectively before the passing of the Act have sued as plaintiffs, or would have been liable to be sued as defendants, in any action or suit, they may respectively sue as plaintiffs in any action by their committees or next friends in manner practised in the Court of Chancery before the passing of the said Act, and may in like manner defend any action by their committees or guardians appointed for that purpose.

ORDER XV.

PLEADING GENERALLY.

125
Old rules
abolished.

1. The following Rules of pleading shall be substituted for those heretofore used in the Court of Chancery and in the Courts of Common Law.

126
Statement of
claim and de-
fence.

2. Unless the defendant in an action at the time of his appearance shall state that he does not require the delivery of a statement of claim, the plaintiff shall within such time and in such manner as hereinafter prescribed, deliver to the defendant after his appearance a statement of his claim and of the relief or remedy to which he claims to be entitled; or a notice in lieu of such statement as provided by Order 17 of these Rules.

(a) The defendant shall, within such time and in such manner as hereinafter prescribed, deliver to the plaintiff a statement of his defence, set-off, or counter-claim (if any).

(b)

(b) The plaintiff may, in like manner, deliver a statement of his reply (if any) to such defence, set-off, or counter-claim.

(c) Such statements shall be as brief as the nature of the case will admit, and the Court in adjusting the costs of the action shall inquire at the instance of any party into any unnecessary prolixity, and order the costs occasioned by such prolixity to be borne by the party chargeable with the same.

(d) The taxing officer shall have the like duty where the Court has not made such order.

3. A defendant in an action may set-off, or set up by way of counter-claim, against the claims of the plaintiff, any right or claim whether such set-off or counter-claim sound in damages or not. ¹²⁷ Set-off and counter-claim.

(a) Such set-off or counter-claim shall have the same effect as a statement of claim in a cross-action, so as to enable the Court to pronounce a final judgment in the same action, both on the original and on the cross claim.

(b) But the Court or a Judge may, on the application of the plaintiff before trial, if in the opinion of the Court or Judge such set-off or counter-claim cannot be conveniently disposed of in the pending action, or ought not to be allowed, refuse permission to the defendant to avail himself thereof.

4. Every pleading shall contain as concisely as may be a statement of the material facts on which the party pleading relies, but not the evidence by which they are to be proved; such statement shall be divided into paragraphs, numbered consecutively; and each paragraph shall contain, as nearly as may be, a separate allegation; dates, sums and numbers shall be expressed in figures and not in words; signature of counsel shall not be necessary; forms similar to those in Appendix (D) hereto may be used. ¹²⁸ Form of pleadings.

5. Every pleading may be either printed or written, or partly printed and partly written, but no more than 4 copies of any pleading or other document are to be allowed to any party in a cause or matter, exclusive of the draft, but inclusive of all other copies that may be required, or made, in the progress of the cause. ¹²⁹ Copies of pleadings.

6. If more than 3 copies, exclusive of the draft, are required of any pleading or other document, the party may have the pleading or document printed for the purposes of the cause or matter, and in that case he shall in lieu of all charges for copies be allowed 30 cents per folio of the pleading or document, and his reasonable disbursements of procuring the same to be printed. ¹³⁰ Printing pleadings.

7.

131
Delivery of
pleadings.

7. Every pleading or other document required to be delivered to a party, or between parties, shall be delivered to the solicitor of every party who appears by a solicitor, or to the party if he does not appear by a solicitor; but if no appearance has been entered for any party, then such pleading or document shall be delivered by being posted up in the office from which the writ of summons was issued.

132
How plead-
ings delivered
should be
marked.

8. Every pleading in an action shall be delivered between parties, and shall be marked on the face with the date of the day on which it is filed, and with the reference to the Division to which the action is assigned, the title of the action, the description of the pleading, and the name and place of business of the solicitor and agent (if any) of the party filing the same, or the name and address of the party filing the same if he does not act by a solicitor.

133
Relief claimed
to be stated
specifically.

9. Every statement of claim shall state specifically the relief which the plaintiff claims, either simply or in the alternative, and may also ask for general relief. And the same rule shall apply to any counter-claim made, or relief claimed by the defendant, in his statement of defence. If the plaintiff's claim be for discovery only, the statement of claim shall shew it.

134
Distinct
claims or
defences.

10. Where the plaintiff seeks relief in respect of several distinct claims or causes of complaint founded upon separate and distinct facts, they shall be stated, as far as may be, separately and distinctly. And the same rule shall apply where the defendant relies upon several distinct grounds of defence, set-off, or counter-claim founded upon separate and distinct facts.

135
Effect of docu-
ment may be
stated.

11. Where the contents of any document are material, it shall be sufficient in any pleading to state the effect thereof as briefly as possible, without setting out the whole or any part thereof unless the precise words of the document or any part thereof are material.

136
Allegation of
malice, etc.

12. Where it is material to allege malice, fraudulent intention, knowledge or other condition of the mind of any person, it shall be sufficient to allege the same as a fact, without setting out the circumstances from which the same is to be inferred.

137
Allegation of
notice.

13. Where it is material to allege notice to any person of any fact, matter or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice is material.

138
Implied
contract.

14. Where any contract or any relation between any persons does not arise from an express agreement, but is to be implied from a series of letters or conversations, or otherwise from a
number

number of circumstances, it shall be sufficient to allege such contract or relation as a fact, and to refer generally to such letters, conversations, or circumstances without setting them out in detail; and if in such a case, the person so pleading desires to rely in the alternative upon more contracts or relations than one, as to be implied from such circumstances, he may state the same in the alternative.

15. Neither party need in any pleading allege any matter of fact which the law presumes in his favour, or as to which the burden of proof lies upon the other side, unless the same has first been specifically denied. 139
Facts presumed need not be stated.

[*E.g.*—Consideration for a bill of exchange where the plaintiff sues only on the bill, and not for the consideration as a substantive ground of claim.]

16. If either party wishes to deny the right of any other party to claim as executor, or as trustee, or as assignee in insolvency, or in any representative or other alleged capacity, or the alleged constitution of any partnership firm, he shall deny the same specifically, or the same will be taken to be admitted. 140
Denial of representative capacity.

17. Where a contract is alleged in any pleading, a bare denial of the contract by the opposite party shall be construed only as a denial of the making of the contract in fact, and not of its legality or its sufficiency in law, whether with reference to the Statute of Frauds or otherwise. 141
Bare denial of contract only denial of the making.

18. No plea or defence shall be pleaded in abatement. 142
No Plea in abatement.

19. No new assignment shall hereafter be necessary or used. But everything which has heretofore been alleged by way of new assignment is hereafter to be introduced by amendment of the statement of claim. 143
No new assignment.

20. No defendant in an action for the recovery of land who is in possession by himself or his tenant need plead his title, unless his defence depends on an equitable estate or right, or he claims relief upon any equitable ground against any right or title asserted by the plaintiff. But, except in the cases hereinbefore mentioned, it shall be sufficient to state by way of defence that he is so in possession. And he may nevertheless rely upon any ground of defence which he can prove, except as hereinbefore mentioned. 144
Defence to action for recovery land.

21. Nothing in these Rules contained shall affect the right of any defendant to plead not guilty by statute. And every defence of not guilty by statute shall have the same effect as a plea of not guilty by statute has heretofore had. But if the defendant so plead he shall not plead any other defence without the leave of the Court or a Judge. 145
Plea of not guilty by statute.

146

Manner of making admissions.

22. Admissions are, in all cases where it is practicable, to be by reference to the numbers of the paragraphs in the pleading to which they relate, with such qualifications as may be necessary or proper for protecting the interests of the party making such admissions: thus—"the defendant admits the allegations made in the first, second and third paragraphs of the plaintiff's claim."

147

What facts must be pleaded.

23. Each party in any pleading, not being a petition or a writ of summons, must allege all such facts not appearing in the previous pleading (if any), as he means to rely on, and must raise all such grounds of defence or reply, as the case may be, as if not so raised on the pleadings would be likely to take the opposite party by surprise, or would raise new issues of fact not arising out of the pleadings, as (for instance) fraud, or that any claim has been barred by the Statute of Limitations, or has been released.

148

Silence of pleading no admission.

24. Save as above otherwise provided, the silence of a pleading as to any allegation contained in the previous pleading of the opposite party is not to be construed into an implied admission of the truth of such allegation; and any allegation introduced for the purpose of preventing such implied admission, and not for the purpose of making intelligible the grounds of defence, is to be considered impertinent.

149

Inconsistent pleadings.

25. No pleading, not being a petition or summons, shall, except by way of amendment, raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same.

150

Delivery includes filing.

26. Delivering a statement of claim or defence or other pleading or proceeding, when mentioned or referred to in these Orders, includes filing, where, by the practice of the Courts heretofore or under these Orders, such statement, pleading or proceeding ought to be filed.

ORDER XVI.

PLEADING MATTERS ARISING PENDING THE ACTION.

151

Before delivery of defence.

1. Any ground of defence which has arisen after action brought, but before the defendant has delivered his statement of defence, may be pleaded by the defendant in his statement of defence, either alone or together with other grounds of defence.

152

Before delivery of defence to counter-claim.

2. If, after a statement of defence has been delivered, any ground of defence arises to any set-off or counter-claim alleged therein by the defendant, it may be pleaded by the plaintiff in

in reply, or be introduced by amendment into the statement of claim, within 3 weeks after the defence or the last of the defences shall have been delivered, unless the time shall be extended by the Court or a Judge.

3. Where any ground of defence arises after the defendant has delivered his statement of defence, he may within 8 days after such ground of defence has arisen, deliver a further defence setting forth the same, or, introduce the same by amendment into his statement of defence. 153
After delivery
of defence.

4. Where a ground of defence to any set-off or counter-claim arises after the expiration of 3 weeks from the time of delivering the defence or the last of the defences, the plaintiff within 8 days after such ground of defence has arisen, may deliver a further reply setting forth the same, or may introduce such new ground of defence into his statement of claim by amendment. 154
After delivery
of reply.

5. In any such case the amendment of the pleading filed may be made without an order, on filing a *præcipe* and an affidavit that the matter of the amendment arose within 8 days, next before the day of the making of such amendment. 155
Amendment
on *præcipe*.

6. In cases not provided for by the preceding rules, the leave of the Court or a Judge to amend the statement of claim or defence, or to deliver a further defence or reply, is to be obtained on notice supported by affidavit. 156
Amendment
by leave.

7. Where any defendant, in his statement of defence, whether by way of amendment or otherwise, alleges any ground of defence which has arisen after the commencement of the action, the plaintiff may deliver a confession of such defence; which confession may be in the Form No. 17 in Appendix (B) hereto, with such variations as circumstances may require; and he may thereupon sign judgment for his costs up to the time of the pleading of such defence unless the Court or a Judge shall, either before or after the delivery of such confession, otherwise order. 157
Plaintiff may
deliver con-
fession of
defence.

ORDER XVII.

STATEMENT OF CLAIM.

1. The delivery of statements of claim shall be regulated as follows:—

(a) If the defendant shall not state that he does not require the delivery of a statement of claim, the plaintiff shall, unless otherwise ordered by the Court or a Judge, deliver it within 158
Time within
which to be
delivered.

3 months from the time of the defendant's entering his appearance.

(b) If the defendant shall state that he does not require the delivery of a statement of claim, the plaintiff shall file a copy of the summons with all indorsements thereon within the same time.

(c) The plaintiff may, if he think fit, deliver a statement of claim, with the writ of summons, or notice in lieu of writ of summons, or at any time afterwards, either before or after appearance, and although the defendant may have appeared and stated that he does not require the delivery of a statement of claim: Provided that in no case where a defendant has appeared shall a statement be delivered more than 3 months after the appearance has been entered, unless otherwise ordered by the Court or a Judge.

(d) Where a plaintiff delivers a statement of claim without being required to do so, the Court or a Judge may make such order as to the costs occasioned thereby as shall seem just, if it appears that the delivery of a statement of claim was unnecessary or improper.

(e) The taxing officer shall have the same duty if no order is made by the Court or a Judge.

159

Notice in lieu
of statement.

2. Where the writ is specially indorsed and the defendant has not dispensed with a statement of claim, it shall be sufficient for the plaintiff to file a copy of the writ, with a copy of the special indorsement thereon, if not filed already, and deliver as his statement of claim a notice to the effect that his claim is that which appears by the indorsement upon the writ, unless the Court or a Judge shall order him to deliver a further statement.

(a) Such notice may be either written or printed, or partly written and partly printed, and may be in the Form No. 16 in Appendix (B) hereto, and shall be marked on the face in the same manner as is required in the case of an ordinary statement of claim.

(b) When the plaintiff is ordered to deliver such further statement it shall be delivered within such time as by such order shall be directed; and if no time be so limited then within the time prescribed by Rule 1 of this Order.

ORDER

ORDER XVIII.

DEFENCE.

1 Where a statement of claim is delivered to a defendant ¹⁶⁰ When defence must be delivered.
he shall deliver his defence within 8 days from the delivery of the statement of claim, or from the time limited for appearance, whichever shall be last, unless such time is extended by the Court or a Judge.

2. A defendant, who has appeared in an action and stated ¹⁶¹ Where no statement of claim.
that he does not require the delivery of a statement of claim and to whom a statement of claim is not delivered, may deliver, a defence at any time within 8 days after his appearance, unless such time is extended by the Court or a Judge.

3. Where leave has been given to a defendant to defend ¹⁶² Where leave to defend given.
under Order 10, Rule 1, he shall deliver his defence, if any, within such time as shall be limited by the order giving him leave to defend, or if no time is thereby limited, then within 8 days after the order.

4. Where the Court or a Judge shall be of opinion that any ¹⁶³ Costs of unnecessary denials.
allegations of fact denied or not admitted by either or any party ought to have been admitted, the Court may make such order as shall be just with respect to any extra costs occasioned by their having been denied or not admitted.

5. Where a defendant by his defence sets up any counter-claim which raises questions between himself and the plaintiff ¹⁶⁴ Where counter-claim affects third persons.
along with any other person or persons, he shall add to the title of his defence a further title similar to the title in a statement of claim, setting forth the names of all the persons who, if such counter-claim were to be enforced by cross action, would be defendants to such cross action, and shall deliver his defence to such of them as are parties to the action within the period within which he is required to deliver it to the plaintiff.

6. Where any such person as in the last preceding Rule mentioned is not a party to the action, he shall be summoned to ¹⁶⁵ Service of defence on third party.
appear by being served with a copy of the defence, and such service shall be regulated by the same rules as are hereinbefore contained with respect to the service of a writ of summons, and every defence so served shall be indorsed in the Form No. 19 in Appendix (B) hereto, or to the like effect.

7. Any person not a defendant to the action, who is served ¹⁶⁶ Appearance by third party.
with a defence and counter-claim as aforesaid, must appear thereto as if he had been served with a writ of summons to appear in an action.

167
Reply by
third party.

8. Any person named in a defence as a party to a counter-claim thereby made may deliver a reply within the time within which he might deliver a defence if it were a statement of claim.

168
Striking out
counter-claim.

9. Where a defendant by his statement of defence sets up a counter-claim, if the plaintiff, or any other person named in manner aforesaid as party to such counter-claim, contends that the claim thereby raised ought not to be disposed of by way of counter-claim, but in an independent action, he may at any time within 3 weeks from the delivery of such statement of defence, apply to the Court or a Judge for an order that such counter-claim may be excluded; and the Court or a Judge may, on the hearing of such application, make such order as shall be just.

169
Judgment for
balance of
counter-claim.

10. Where in any action a set-off or counter-claim is established as a defence against the plaintiff's claim, the Court may, if the balance is in favour of the defendant, give judgment for the defendant for such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

ORDER XIX.

DISCONTINUANCE.

170
Discontinu-
ance.

1. The plaintiff may, at any time before receipt of the defendant's statement of defence, or after the receipt thereof before taking any other proceeding in the action (save any interlocutory application), by notice in writing, filed and served, wholly discontinue his action or withdraw any part or parts of his alleged cause of complaint; and thereupon he shall pay the defendant's costs of the action, or if the action be not wholly discontinued, the defendant's costs occasioned by the matter so withdrawn.

Costs.

(a) Such costs shall be taxed, and such discontinuance or withdrawal, as the case may be, shall not be a defence to any subsequent action.

Withdrawal of
record.

(b) Save as in this Order otherwise provided, it shall not be competent for the plaintiff to withdraw the Record or discontinue the action without leave of the Court or a Judge, but the Court or a Judge may, before, or at or after the hearing or trial, upon such terms as to costs, and as to any other action, and otherwise, as may seem fit, order the action to be discontinued, or any part of the alleged cause of complaint to be struck out.

(c)

(c) The Court or a Judge may, in like manner, and with Striking out the like discretion as to terms, upon the application of a defendant, order the whole or any part of his alleged grounds of defence or counter-claim to be withdrawn or struck out, but it shall not be competent to a defendant to withdraw his defence, or any part thereof, without such leave.

2. Where a cause has been entered for trial, it may be withdrawn by either plaintiff or defendant, upon producing to the proper officer a consent in writing, signed by the parties.

171

Withdrawal of record by consent.

3. A defendant may sign judgment for the costs of an action if it is wholly discontinued, or for the costs occasioned by the matter withdrawn, if the action be not wholly discontinued.

172

Costs on discontinuance.

ORDER XX.

REPLY AND SUBSEQUENT PLEADINGS.

1. A plaintiff shall deliver his reply, if any, within 3 weeks after the defence or the last of the defences shall have been delivered, unless the time shall be extended by the Court or a Judge.

173

Delivery of reply.

2. No pleading, subsequent to reply, other than a joinder of issue shall be pleaded without leave of the Court or a Judge, and then upon such terms as the Court or Judge shall think fit.

4

Leave for subsequent pleadings.

3. Subject to the last preceding Rule, every pleading subsequent to reply shall be delivered within 4 days after the delivery of the previous pleading, unless the time shall be extended by the Court or a Judge.

175

Time for delivery.

ORDER XXI.

CLOSE OF PLEADINGS.

As soon as either party has joined issue upon any pleading of the opposite party simply, without adding any further or other pleading thereto, or as soon as the time for amending the pleadings under these Rules or under any order made in the action or for delivering a reply or subsequent pleading or demurrer, has expired, the pleadings as between such parties shall be deemed to be closed without any joinder of issue being pleaded by any or either party.

176

When pleadings closed.

ORDER

ORDER XXII.

ISSUES.

177
Settlement of
issues.

Where in any action it appears to a Judge that the statement of claim or defence or reply does not sufficiently define the issues of fact in dispute between the parties, he may direct the parties to prepare issues, and such issues shall, if the parties differ, be settled by the Judge.

ORDER XXIII.

AMENDMENT OF PLEADINGS.

178
Amendment
with leave.

1. The Court or a Judge may, at any stage of the proceedings, allow either party to alter his statement of claim or defence or reply; or may order to be struck out or amended any matter in such statements respectively which may be scandalous, or which may tend to prejudice, embarrass, or delay the fair trial of the action. All such amendments shall be made as may be necessary for the purpose of determining the real questions or question in controversy between the parties.

179
Amendment
by plaintiff
without leave.

2. The plaintiff may, without any leave, amend his statement of claim once at any time before the expiration of the time limited for reply and before replying, or, where no defence is delivered, at any time before the expiration of 4 weeks from the appearance of the defendant who shall have last appeared.

180
Amendment
by defendant
without leave.

3. A defendant who has set up in his defence any set-off or counter-claim, may, without any leave, amend such set-off or counter-claim at any time before the expiration of the time allowed him for pleading to the reply, and before pleading thereto, or in case there be no reply, then within 28 days from the filing of his defence.

181
Disallowance
of amendment.

4. Where any party has amended his pleadings under either of the last 2 preceding Rules, the opposite party may, within 8 days after the delivery to him of the amended pleading, apply to the Court or a Judge, to disallow the amendment, or any part thereof, and the Court or Judge may, if satisfied that the justice of the case requires it, disallow the same, or allow it, subject to such terms as to costs or otherwise as may seem just.

182
Leave to plead
or amend after
amendment.

5. Where any party has amended his pleading under Rule 2 or 3 of this Order, the other party may without leave amend his former pleading within 4 days after the delivery of the pleading so amended under such Rule: or he may apply to the Court or a Judge for leave to amend his former pleading within such further time and upon such terms as may seem just.

6.

6. Either party may amend his pleading at any time without order on filing the written consent of the opposite party or his solicitor. ¹⁸³ Amendment by consent.

7. In all cases not provided for by the preceding Rules numbered from 2 to 6, of this Order, application for leave to amend any pleading may be made by either party to the Court or a Judge in Chambers, or to the Judge at the trial of the action, and such amendment may be allowed upon such terms as to costs or otherwise, as may seem just. ¹⁸⁴ Application for leave to amend.

8. If a party who has obtained an order for leave to amend a pleading delivered by him does not amend the same within the time limited for that purpose by the order, or if no time is thereby limited, then within 14 days from the date of the order, such order to amend shall, on the expiration of such limited time as aforesaid, or of such 14 days, as the case may be, become, *ipso facto*, void, unless the time is extended by the Court or a Judge. ¹⁸⁵ Time limited for amendment.

9. A pleading may be amended by written alterations in the copies filed and served and by additions on paper to be interleaved therewith if necessary; unless the amendments require the insertion of more than 200 words in any one place, or are so numerous or of such a nature that the making them in the copies filed and served would render the same difficult or inconvenient to read; in either of which cases the amendment must be made by delivering a print or fresh copy of the pleading as amended. ¹⁸⁶ How alterations to be made.

10. Where any pleading is amended, such pleading when amended shall be marked with the date of the order, if any, under which the same is so amended, and of the day on which such amendment is made, in manner following, viz: "Amended day of ."
" ¹⁸⁷ Marking of amended pleadings.

(a) Where a pleading is amended, the amendment shall be written in ink of a different colour from that used in the original pleading.

11. Where a pleading is amended, such amended pleading shall be delivered to the opposite party within the time allowed for amending the same. ¹⁸⁸ Delivery of amended pleadings.

ORDER XXIV.

DEMURRER.

1. Any party may demur to any pleading of the opposite party, or to any part of a pleading setting up a distinct cause of action, ground of defence, set-off, counter-claim, reply, or as the ¹⁸⁹ Demurrer when allowed.

the case may be, on the ground that the facts alleged therein do not shew any cause of action or ground of defence to a claim or any part thereof, or set-off, or counter-claim, or reply or as the case may be, to which effect can be given by the Court as against the party demurring.

190

Form of
demurrer.

2. A demurrer shall state specifically whether it is to the whole or to a part, and if to part only, to what part, of the pleading of the opposite party. It shall state some ground in law for the demurrer, but the party demurring shall not, on the argument of the demurrer, be limited to the ground so stated. A demurrer may be in the Form No. 74 in Appendix (D) hereto. If no ground, or only a frivolous ground of demurrer is stated, the Court or a Judge may set aside such demurrer, with costs.

191

Delivery of
demurrer.

3. A demurrer shall be delivered in the same manner and within the same time as any other pleading in the action.

192

Demurrer and
defence to be
combined.

4. A defendant desiring to demur to part of a statement of claim, and to put in a defence to the other part, shall combine such demurrer and defence in one pleading. And so in every case where a party entitled to put in a further pleading desires to demur to part of the last pleading of the opposite party, he shall combine such demurrer and other pleading.

193

Plea and de-
murrer to same
pleading with-
out leave.

5. Either party may without leave plead and demur to the same pleading at the same time by filing an affidavit by such party distinctly denying some one or more material statement or statements in such pleading; or stating that the several matters sought to be pleaded by way of confession and avoidance are respectively true in substance and in fact; and that he is further advised and believes that the objections raised by such demurrer are good and valid objections in law. The affidavit is to be annexed to and filed with the plea and demurrer, and a copy of the affidavit is to be served with the plea and demurrer.

194

Leave to de-
mur and plead
to the same
matter.

6. If the party demurring desires to be at liberty to plead as well as to demur to the matter demurred to without filing such affidavit, he may, before demurring, apply to the Court or a Judge for an order giving him leave to so plead and demur, such application being supported by such affidavit as now required in the Superior Courts of Law; and the Court or Judge, if satisfied that there is reasonable ground for the demurrer, may make an order accordingly, or may reserve leave to him to plead after the demurrer is overruled, and may direct which issue shall be first disposed of; or may make such other order and upon such terms as may be just.

195

Entry for
argument.

7. Where a demurrer either to the whole or part of a pleading is delivered, either party may enter the demurrer for argu-
ment

ment immediately, and the party so entering such demurrer shall on the same day give notice thereof to the other party.

(a) If the demurrer shall not be entered and notice thereof given within 10 days after delivery, and if the party whose pleading is demurred to does not within such time serve an order for leave to amend, the demurrer shall be held sufficient, for the same purposes, and with the same result as to costs, as if it had been allowed on argument. Effect of not entering.

8. While a demurrer to the whole or any part of a pleading is pending, such pleading shall not be amended unless by order of the Court or a Judge; and no such order shall be made except on payment of the costs of the demurrer. 196
No amendment pending demurrer.

9. Where a demurrer to the whole or part of any pleading is allowed upon argument, the party whose pleading is demurred to shall, unless the Court otherwise order, pay to the demurring party the costs of the demurrer. 197
Costs of successful demurrer.

10. If a demurrer to the whole of a statement of claim be allowed, the plaintiff, subject to the power of the Court to allow the statement of claim to be amended, shall pay to the demurring defendant the costs of the action, unless the Court shall otherwise order. 198
Costs of action on successful demurrer to plaintiff's whole claim.

11. Where a demurrer to any pleading or part of a pleading is allowed in a case not falling within the last preceding Rule, then (subject to the power of the Court to allow an amendment) the matter demurred to shall as between the parties to the demurrer be deemed to be struck out of the pleadings, and the rights of the parties shall be the same as if it had not been pleaded. 199
Effect of demurrer to part being allowed.

12. Where a demurrer is overruled, the demurring party shall pay to the opposite party the costs occasioned by the demurrer, unless the Court shall otherwise direct. 200
Costs of unsuccessful demurrer.

13. Where a demurrer is overruled, the Court may make such order, and upon such terms as to the Court shall seem right, for allowing the demurring party to raise by pleading any case he may be desirous to set up in opposition to the matter demurred to. 201
Pleadings after demurrer is overruled.

14. A demurrer shall be entered for argument by delivering to the proper officer a memorandum of entry in the Form No. 86 in Appendix (E). 202
Form of entry for argument.

ORDER XXV.

DEFAULT OF PLEADING.

203

Dismissal of
action on
plaintiff's
default in
claim for debt.

1. If the plaintiff, being bound to deliver a statement of claim, does not deliver the same within the time allowed for that purpose, the defendant may, at the expiration of such time, apply to the Court or a Judge to dismiss the action with costs, for want of prosecution; and on the hearing of such application the Court or Judge may, if no statement of claim have been delivered, order the action to be dismissed accordingly, or may make such other order, on such terms, as to the Court or Judge shall seem just.

204

Judgment on
defendant's
default in
claim for debt.

2. If the plaintiff's claim be only for a debt or liquidated demand, and the defendant does not, within the time allowed for that purpose, deliver a defence or demurrer, the plaintiff may, at the expiration of such time, enter final judgment for the amount claimed, with costs.

205

Where several
defendants.

3. Where in any such action as in the last preceding Rule mentioned there are several defendants, if one of them makes default as mentioned in the last preceding Rule, the plaintiff may enter final judgment against the defendant so making default, and issue execution upon such judgment without prejudice to his right to proceed with his action against the other defendants.

206

Interlocutory
judgment on
default in
claim for
damages.

4. If the plaintiff's claim be for detention of goods and pecuniary damages, or either of them, and the defendant makes default as mentioned in Rule 2, the plaintiff may enter an interlocutory judgment against the defendant, and the value of the goods, and the damages, or the damages only, as the case may be, shall be assessed as hitherto. But the Court or a Judge may order that the value and amount of damages, or either of them, shall be ascertained in any other way in which any question arising in an action may be tried.

207

Where several
defendants.

5. Where in any such action as in Rule 4 mentioned there are several defendants, if one of them makes default as mentioned in Rule 2, the plaintiff may enter an interlocutory judgment against the defendant so making default, and proceed with his action against the others. And in such case, damages against the defendant making default shall be assessed at the same time with the trial of the action or issues therein against the other defendants, unless the Court or a Judge shall otherwise direct.

208

Where debt
and damages
claimed.

6. If the plaintiff's claim be for a debt or liquidated demand, and also for detention of goods and pecuniary damages, or pecuniary damages only, and the defendant makes default as mentioned

mentioned in Rule 2, the plaintiff may enter final judgment for the debt or liquidated demand, and also enter interlocutory judgment for the value of the goods and the damages, or the damages only, as the case may be, and proceed as mentioned in Rule 4.

7. In an action for the recovery of land, if the defendant makes default as mentioned in Rule 2, the plaintiff may enter a judgment that the person whose title is asserted in the writ of summons shall recover possession of the land, with his costs. 209
Default by defendant in action for land.

8. Where the plaintiff has indorsed a claim for mesne profits, arrears of rent, or damages for breach of contract, upon a writ for the recovery of land, if the defendant makes default as mentioned in Rule 2, or if there be more than one defendant, and some or one of the defendants make such default, the plaintiff may enter judgment against the defaulting defendant or defendants, and proceed as mentioned in Rules 4 and 5. 210
Where claim for land and damages.

9. In all other actions than those in the preceding Rules of this Order mentioned, if the defendant makes default in delivering a defence or demurrer, the plaintiff may set down the action on motion for judgment, and such judgment shall be given as upon the statement of claim the Court shall consider the plaintiff to be entitled to. 211
Other actions.

10. Where, in any such action as mentioned in the last preceding Rule, there are several defendants, then, if one of such defendants makes such default as aforesaid, the plaintiff may either set down the action at once on motion for judgment against the defendant so making default, or may set it down against him at the time when it is entered for trial or set down on motion for judgment against the other defendants. 212
Where several defendants, and one makes default.

11. In any case in which issues arise other than between plaintiff and defendant, if any party to any such issue makes default in delivering any pleading, the opposite party may apply to the Court or a Judge for such judgment, if any, as upon the pleadings he may appear to be entitled to. And the Court may order judgment to be entered accordingly, or may make such other order as may be necessary to do complete justice between the parties. 213
In case of issues between parties other than plaintiff and defendant.

12. Any judgment by default, whether under this Order or under any other of these Rules, may be set aside by the Court or a Judge, upon such terms as to costs or otherwise as such Court or Judge may think fit. 214
Judgment by default may be set aside on terms.

ORDER XXVI.

PAYMENT INTO COURT IN SATISFACTION.

215

In what cases
and at what
time.

1. Where any action is brought to recover a debt or damages, any defendant may at any time after service of the writ, and before or at the time of delivering his defence, or by leave of the Court or a Judge at any later time, pay into Court a sum of money by way of satisfaction or amends. Payment into Court shall be pleaded in the defence, and the claim or cause of action in respect of which such payment shall be made shall be specified therein.

216

How paid.

2. Such sum of money shall be paid as hitherto into the proper bank or to the proper officer, and the proper officer shall give a receipt for the same. If such payment be made before delivering his defence, the defendant shall thereupon serve upon the plaintiff a notice that he has paid in such money, and in respect of what claim, in the Form No. 21, in Appendix (B) hereto.

217

Payment out.

3. Money paid into Court as aforesaid may, unless otherwise ordered by a Judge, be paid out to the plaintiff, or to his solicitor, on the written authority of the plaintiff. No affidavit shall be necessary to verify the plaintiff's signature to such written authority unless specially required by the officers of the Court, or one of the officers, whose duty it is to sign or countersign the cheque.

218

Acceptance in
satisfaction.

4. The plaintiff, if payment into Court is made before delivering a defence, may within 4 days after receipt of notice of such payment, or if such payment is first stated in a defence delivered then, may, before reply, accept the same in satisfaction of the causes of action in respect of which it is paid in; in which case he shall give notice to the defendant in the Form No. 22 in Appendix (B) hereto, and shall be at liberty, in case the sum paid in is accepted in satisfaction of the entire cause of action, to tax his costs, and in case of non-payment within 48 hours, to sign judgment for his costs so taxed.

ORDER XXVII.

DISCOVERY AND INSPECTION.

219

Right to have
examination
taken in
shorthand.

1. In case of an examination before the trial, or otherwise than at the trial, of an action, if the examining party desires to have such examination taken in shorthand, he shall be entitled to have the examination taken before any examiner residing

residing at the place of examination competent to take the evidence in shorthand, except where the Court or a Judge sees fit to order otherwise.

2. The costs of every examination of parties or of officers of corporations before the trial, or otherwise than at the trial of an action, as authorized by the present practice of the respective Courts whose jurisdiction is vested in the High Court, shall be costs in the cause, but the Court or Judge in adjusting the costs of the action shall at the instance of any party inquire, or cause inquiry to be made, into the propriety of having made such examination; and if it is the opinion of the Court or Judge, or the taxing master, as the case may be, that such examination has been had unreasonably, vexatiously, or at unnecessary length, the costs occasioned by the examination shall be borne in whole or in part by the party in fault. The taxing master may make such inquiry without any direction.

220

Costs of preliminary examination.

3. It shall be lawful for the Court or a Judge at any time during the pendency of any action or proceeding, to order the production by any party thereto, upon oath, of such of the documents in his possession or power relating to any matter in question in such action or proceeding, as the Court or Judge shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.

221

Order for production of documents.

4. Any party may, after the close of the pleadings, (or when the application is on behalf of a plaintiff after the time for delivering the defence of any party to the action has expired,) obtain an order of course upon præcipe, directing the adverse party within 10 days after the service thereof, to make discovery on oath of the documents which are or have been in his possession or power, relating to any matters in question in the action; and to produce and deposit the same with the proper officer for the usual purposes, and such party shall make discovery and produce and deposit the documents accordingly, without further notice.

222

Discovery before and after close of pleadings.

5. A third party who has been served by a defendant under Order 12, Rule 20, and has entered an appearance, shall, for all purposes of, and incident to the production of documents, and to examination, be as between him and such defendant in the same situation as a defendant, and the defendant serving him shall, for the same purposes, be in the same situation as a plaintiff; the time for taking out an order for production or for examination shall be after the party so served has delivered a reply, or where the application is on behalf of the defendant so serving such third party, the time shall be after the time for delivering the reply has expired.

223

Position of a third party served by a defendant.

6. A person for whose immediate benefit a suit is prosecuted or defended is to be regarded as a party for the purpose of examination or production of documents.

224

Person for whose benefit suit is conducted a party for certain purposes.

7.

225

Affidavit on
production by
a corporation.

7. Where the party required to produce documents is a corporation aggregate, the affidavit shall be made by one of the officers of the corporation.

226

Cross-exam-
ination of de-
ponent.

8. The deponent shall be subject to cross-examination, and his affidavit shall have the same effect (as nearly as may be) as the affidavit of a party, unless where the Court or Judge sees reason for holding otherwise.

227

Examination
of former
officers of cor-
poration.

9. Persons who have ceased to be officers of a corporation may be examined in the same manner as existing officers.

228

Affidavit in
answer.

10. The affidavit to be made by a party against whom an order for production has been made, shall specify which, if any, of the documents therein mentioned, he objects to produce, and said affidavit may be in the Form No. 34 in Appendix (C) hereto, with such variations as circumstances may require.

229

Notice to pro-
duce docu-
ments referred
to in pleading
or affidavits.

11. Every party to an action or other proceeding shall be entitled, at any time before or at the hearing thereof, to give notice in writing to any other party, in whose pleadings or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, or of his solicitor, and to permit him to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such action or proceeding, unless he shall satisfy the Court that such document relates only to his own title, he being a defendant to the action, or that he had some other sufficient cause for not complying with such notice.

230

Inspection of
documents.

12. No allowance is to be made for any order for production or any notice or inspection under any of the preceding Rules, unless it is shewn to the satisfaction of the taxing officer that there were good and sufficient reasons for taking such order, giving such notice, or making such inspection.

231

Form of notice
to produce.

13. Notice to any party to produce any documents referred to in his pleading or affidavits may be in the form No. 23 in Appendix (B) hereto, or to the same effect.

232

Notice to
inspect.

14. The party to whom such notice is given shall, within 2 days from the receipt of such notice, if all the documents therein referred to have been set forth by him in such affidavit as is mentioned in Rule 10; or if any of the documents referred to in such notice have not been set forth by him in any such affidavit, then within 4 days from the receipt of such notice; deliver to the party giving the same a notice stating a time within 3 days from the delivery thereof at which the documents, or such of them as he does not object to produce, may be inspected at the office of his solicitor, and stating which (if any) of the documents he objects to produce and on what ground

ground. Such notice may be in the Form No. 25, in Appendix (B) hereto, with such variations as circumstances may require.

15. If the party served with notice under Rule 13 omits to give such notice of a time for inspection, or objects to give inspection, the party desiring it may apply to a Judge for an order for inspection.

233
Order for inspection on default.

16. Every application for an order for inspection of documents shall be to a Judge. And, except in the case of documents referred to in the pleadings or affidavits of the party against whom the application is made, or disclosed in his affidavit of documents, such application shall be founded upon an affidavit shewing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party.

234
Application for order.

17. If the party from whom discovery of any kind or inspection is sought objects to the same, or any part thereof, the Court or a Judge, if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the action, or that for any other reason it is desirable that any issue or question in dispute in the action should be determined before deciding upon the right to the discovery or inspection, may order that such issue or question be determined first, and reserve the question as to the discovery or inspection.

235
When inspection objected to.

18. If any party fails to comply with any order for discovery or inspection of documents, he shall be liable to attachment. He shall also, if a plaintiff, be liable to have his action dismissed for want of prosecution; and, if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not defended; and the party who obtained the order for discovery or inspection may apply to the Court or a Judge for an order to that effect, and an order may be made accordingly.

236
Consequences of disobeying an order for discovery.

19. Service of an order for discovery or inspection made against any party on his solicitor shall be sufficient service to found an application for an attachment for disobedience to the order. But the party against whom the application for an attachment is made may shew in answer to the application that he has had no notice or knowledge of the order.

237
Application for attachment.

20. A solicitor upon whom an order against any party for discovery or inspection is served under the last Rule, who neglects without reasonable excuse to give notice thereof to his client, shall be liable to an attachment.

238
Attachment of Solicitor.

21. Any party may, at the trial of an action or issue, use in evidence any part of the examination of the opposite parties; provided

239
Part of examination to be evidence.

provided always, that in such case the Judge may look at the whole of the examination, and if he shall be of opinion that any other part is so connected with the part to be so used that the last mentioned part ought not to be used without such other part, he may direct such other part to be put in evidence.

ORDER XXVIII.

ADMISSIONS.

240

Admission of
statements of
opponent.

1. Each party is to admit such of the material allegations contained in the statement of claim or defence of the opposite party as are true; or he may give notice, by his own statement or otherwise, that he admits for the purposes of the action the truth of the case generally, or of any part of the case, stated or referred to in the statement of claim or defence of the opposite or any other party.

241

Notice to ad-
mit docu-
ments.

2. Either party may call upon the other party to admit any document, saving all just exceptions; and in case of refusal or neglect to admit after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the action may be, unless at the hearing or trial the Court certify that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice be given, except where the omission to give the notice is, in the opinion of the taxing officer, a saving of expense.

242

Form of
notice.

3. A notice to admit documents may be in the Form No. 26, in Appendix (B) hereto.

243

Proof of
admissions.

4. The production of any written admissions purporting to be admissions in the action, and to be made in pursuance of any notice to admit documents or otherwise, and to be signed by the solicitor of the party by whom, or on whose behalf, they purport to be made, shall be sufficient *prima facie* evidence of such admissions.

ORDER XXIX.

INQUIRIES AND ACCOUNTS.

244

May be direct-
ed at any
stage.

1. The Court or a Judge may, at any stage of the proceedings in a cause or matter, direct any necessary inquiries or accounts to be made or taken, notwithstanding that it may appear that there is some special or further relief sought for, or some special issue to be tried, as to which it may be proper that the cause or matter should proceed in the ordinary manner.

2.

2. Where a reference is made to any official or other referee under the Act, the referee shall have all the powers as to certifying and amending of a Judge of the High Court of Justice, and shall make his report of and concerning the matters ordered to be tried pursuant to the statute ;

245

Provisions of reference to official or other referee.

(a) The referee may, if he think fit, examine the parties to the action, and their respective witnesses, upon oath or affirmation, and the parties shall produce before the referee all books, deeds, papers and writings in their or either of their custody or power relating to the matters ordered to be tried ;

(b) Neither the plaintiff nor the defendant shall bring or prosecute any action against the referee, or against each other, of or concerning the matters ordered to be tried, and if either party by affected delay or otherwise wilfully prevent the referee from making his report, he or they shall pay such costs to the other as the High Court, or any Judge thereof, may think reasonable and just ;

(c) In the event of the referee declining to act, or dying before he has made his report, the parties may, or if they cannot agree, one of the Judges of the High Court may, upon application by either party, appoint a new referee.

3. Where a reference is made by order to the award of an arbitrator, the arbitrator shall have all the powers as to certifying and amending of a Judge of the High Court of Justice ; and shall make and publish his award in writing of and concerning the matters referred, ready to be delivered to the parties in difference, or such of them as require the same (or their respective personal representatives, if either of the said parties die before the making of the award) on or before the time mentioned in the order, or on or before such further day as the arbitrator may from time to time appoint and signify in writing signed by him and indorsed on the order ;

246

Provisions of order of reference to an arbitrator.

(a) The arbitrator may (if he think fit) examine the said parties to the action, and their respective witnesses, upon oath or affirmation ; and the parties shall prove before the arbitrator all books, deeds, papers and writings in their or either of their custody or power relating to the matters in difference ;

(b) Neither the plaintiff nor the defendant shall bring or prosecute any action against the arbitrator or one another of or concerning the matters referred ; and if either party by affected delay or otherwise wilfully prevent the arbitrator from making an award, he or they shall pay such costs to the other as the arbitrator may think reasonable and just ;

(c) In the event of either of the parties disputing the validity of

of the award, or moving to set it aside, the Court or Judge shall have power to remit the matters referred or any or either of them to the reconsideration of the arbitrator ;

(d) In the event of the arbitrator declining to act or dying before he has made his award, the parties may, or if they cannot agree, one of the Judges of the High Court may, on application by either side, appoint a new arbitrator ;

(e) Unless restrained by any order of the High Court of Justice, or of any Judge thereof, the party or parties in whose favour the award shall be made shall be at liberty after the expiration of 14 days after service of a copy of the award on the solicitor or agent of the other party to sign final judgment in accordance with the award, and for all costs that he or they may be entitled to under the order, and under the award, together with the costs of the judgment.

347

Order to be read as containing above provisions.

4. An order under either of the preceding rules shall be read as if it contained the provisions set forth in the said rule, and shall not set forth the said provisions, but may contain any variation therefrom, and any other directions which the Court or Judge shall see fit to make.

ORDER XXX.

QUESTIONS OF LAW.

348

Parties may concur in stating special case.

1. The parties may, after the writ of summons has been issued, concur in stating the questions of law arising in the action in the form of a special case for the opinion of the Court ;

(a) The parties to a special case may, if they think fit, enter into an agreement in writing, that on the judgment of the Court being given in the affirmative or negative of the question or questions of law raised by the special case, a sum of money, fixed by the parties, or to be ascertained by the Court or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, either with or without costs of the action ; and the judgment of the Court may be entered for the sum so agreed or ascertained, with or without costs, as the case may be, and execution may issue upon such judgment forthwith, unless otherwise agreed, or unless stayed on appeal ;

(b) Every special case shall be divided into paragraphs numbered consecutively, and shall concisely state such facts and documents as may be necessary to enable the Court to decide the questions raised thereby ;

(c)

(c) Upon the argument of such case the Court and the parties shall be at liberty to refer to the whole contents of such documents, and the Court shall be at liberty to draw from the facts and documents stated in any such special case any inference, whether of fact or law, which might have been drawn therefrom if proved at a trial.

2. If it appears to the Court or a Judge, either from the statement of claim or defence or reply, or otherwise, that there is in any action a question of law, which it would be convenient to have decided before any evidence is given or any question or issue of fact is tried, or before any reference is made to a referee or an arbitrator, the Court or Judge may make an order accordingly, and may direct such question of law to be raised either by special case or in such other manner as the Court or Judge may deem expedient; and all such further proceedings as the decision of such question of law may render unnecessary may thereupon be stayed. ^{249 Preliminary question of law.}

3. Every special case shall be signed by the several parties or their solicitors, and shall be filed by the plaintiff. Copies for the use of the Judges shall be delivered by the plaintiff. ^{250 Preparing case.}

4. No special case in an action to which a married woman, infant, or person of unsound mind is a party shall be set down for argument without leave of the Court or a Judge, the application for which must be supported by sufficient evidence that the statements contained in such special case, so far as the same affect the interest of such married woman, infant, or person of unsound mind, are true. ^{251 Persons under disability.}

5. Either party may enter a special case for argument by delivering to the proper officer a memorandum of entry, in the Form No. 87 in Appendix (E) hereto, and also if any married woman, infant, or person of unsound mind be a party to the action, producing a copy of the order giving leave to enter the same for argument. ^{252 Entry for argument.}

6. This Order shall apply to every special case stated in an action or in any proceeding incidental to an action; whether under the said or any other Act. ^{253 Application of order.}

ORDER XXXI.

TRIAL.

1. There shall be no local venue for the trial of any action except an action of ejectment, but the plaintiff shall in his statement of claim name the county town in which he proposes that ^{254 Venue abolished.}

G

that the action should be tried, and the action shall, unless a Judge otherwise orders, be tried in the place so named. Any order of a Judge, as to such place of trial, may be discharged or varied by a Divisional Court of the High Court.

255

Notice of trial.

Order to dismiss for want of prosecution.

2. After the close of the pleadings either party may give notice of trial for the next sitting of the Court which shall be not less than 10 days thereafter for the place so named or ordered; or if the plaintiff does not give such notice of trial, and if the pleadings were closed 6 weeks before the commencement of such sitting, the defendant, instead of giving notice of trial, may apply to the Court or Judge to dismiss the action for want of prosecution; and on the hearing of such application, the Court or Judge may order the action to be dismissed accordingly, or may make such other order, and on such terms, as to the Court or Judge may seem just.

256

Trial of different questions in different modes.

3. Subject to the provisions of the Act and of the preceding Rules, the Court or a Judge may, in any action at any time or from time to time, order that different questions of fact arising therein be tried by different modes, or that one or more questions of fact be tried before the others, and may appoint the place or places for such trial or trials, and in all cases may order that one or more issues of fact be tried before any other or others.

257

Trial by jury.

4. Every trial of any question or issue of fact by a jury shall be held before a single Judge, unless such trial be specially ordered to be held before two or more Judges.

258

Form of notice of trial.

5. Notice of trial shall state whether it is for the trial of the action or of issues therein; and the place and day for which it is to be entered for trial. It may be in the Form No. 27 in Appendix (B), with such variations as circumstances may require.

259

10 days' notice.

Short notice 5 days.

6. Ten days' notice of trial shall be given, unless the party to whom it is given has consented to take short notice of trial; and shall be sufficient in all cases, unless otherwise ordered by the Court or a Judge. Short notice of trial shall be 5 days' notice.

260

Notice must be given before entry of action.

7. Notice of trial shall be given before entering the action for trial.

261

Entry for trial.

8. After notice of trial is given either party may enter the action for trial. If both parties enter the action for trial, it shall be tried in the order of the plaintiff's entry.

262

Copy of pleadings.

9. On the day before the day for holding the Court at which the action is to be tried, the party entering the action for trial shall deliver to the proper officer one copy of the whole of the pleadings

pleadings in the action, for the use of the Judge at the trial, such copy to be certified as a true copy by the officer having charge of the pleadings filed.

10. Where the Judges consider that public convenience so requires, provision may be made for the trial at a separate time, or before another Judge, of the actions from the Chancery Division. 263
Separate trials
for actions in
Chy. Division.

11. Actions in all the Divisions shall be entered not later than the third day next before the first day of the Assizes or sittings; but the Judge may permit any action to be entered after the time above limited, if upon facts disclosed on affidavit, or on the consent of both parties, he sees fit to do so. This Rule shall be construed to apply to County Courts. 264
Time of entry
for trial.

12. Where the Deputy Clerk of the Crown and Deputy Registrar in any County are not the same person, all actions shall be so entered with the Deputy Clerk of the Crown, except in cases under Rules 10 and 13, but the Deputy Registrar shall attend the trial of actions brought in the Chancery Division, and shall be entitled to the same fee as if the cause had been set down with him for hearing. 265
Actions with
whom entered.

13. In case of provision being made for the trial at a separate time and place of actions brought in or assigned to the Chancery Division, the actions shall be entered for trial with the Registrar, or Deputy Registrar, as the case may be, according to the present practice of the Court of Chancery. 266
When entry to
be made with
Registrar.

14. The party entering any action for trial shall indorse on the copy of the pleadings delivered as aforesaid, whether the matter for trial is an assessment of damages, or an undefended issue, or a defended issue; and the officer with whom the action is so entered shall make two lists, and enter each action in one of the said lists, in the order in which the actions are entered with him; and in the first list he shall enter all the assessments and undefended issues, and in the second list all defended issues, and the Judge at the trial may call on the actions in the first list at such time and times as he finds most convenient for disposing of the business. 267
Separate lists
of defended
and unde-
fended issues.

15. If, when an action is called on for trial, the plaintiff appears, and the defendant does not appear, then the plaintiff may prove his claim, so far as the burden of proof lies upon him. 268
Non-appear-
ance of
defendant.

16. If, when an action is called on for trial, the defendant appears, and the plaintiff does not appear, the defendant, if he has no counter-claim, shall be entitled to judgment dismissing the action, but if he has a counter-claim he may prove such claim so far as the burden of proof lies upon him. 269
Non-appear-
ance of
plaintiff.

17.

270

Setting aside judgment by default.

17. Any verdict or judgment obtained where one party does not appear at the trial may be set aside by the Court or a Judge upon such terms as may seem fit; such application may be made at the Assizes or sittings at which the trial took place, or in Toronto.

271

Evidence omitted by accident or mistake, how supplied.

18. Where, through accident or mistake or other cause, any party omits or fails to prove some fact material to his case, the Judge may proceed with the trial, subject to such fact being afterwards proved at such time, and subject to such terms and conditions as to costs and otherwise, as the Judge shall direct; and if the case is being tried by a jury, the Judge may direct the jury to find a verdict as if such fact had been proved, and the verdict shall take effect on such fact being afterwards proved as directed; and if not so proved, judgment is to be entered for the opposite party, unless the Court or a Judge otherwise directs. This Rule shall not apply to an action for libel.

272

Adjournment of trial.

19. The Judge, if he think it expedient for the interest of justice, may postpone or adjourn the trial for such time, and upon such terms, if any, as he shall think fit.

273

Judge may direct entry of judgment; or reserve judgment.

20. Upon the trial of an action, the Judge may, at or after the trial, direct that judgment be entered for any or either party, or adjourn the case for further consideration.

274

By whom entries of findings to be made.

21. The Registrar, Clerk of Assize or other officer present at the trial shall enter all such findings of fact as the Judge may at the trial direct to be entered, and the directions, if any, of the Judge as to judgment, and the certificates, if any, granted by the Judge, such entry to be made in a book to be kept for the purpose, and also to be indorsed on the copy of the pleadings delivered under Rule 9 of this order.

275

Certificate of Judge or Officer.

22. The said indorsement, or the certificate of the said officer or the certificate of the Judge, shall be a sufficient authority to the proper officer for entering judgments to enter judgment accordingly. The certificate may be in the Form No. 174 in Appendix (I) hereto.

276

Trial before referee.

23. Where any cause or matter, or any question in any cause or matter, is referred to a referee, he may, subject to the order of the Court or a Judge, hold the trial at, or adjourn it to, any place which he may deem most convenient, and have any inspection or view, either by himself or with his assessors if any, which he may deem expedient for the better disposal of the controversy before him. He shall, unless otherwise directed by the Court or a Judge, proceed with the trial *de die in diem* in a similar manner as in actions tried by a jury.

277

Proceedings at trial before referee.

24. Subject to any order to be made by the Court or Judge ordering the same, evidence shall be taken at any trial before

a referee, and the attendance of witnesses may be enforced by subpoena, and every such trial shall be conducted in the same manner, as nearly as circumstances will admit, as trials before a Judge of the High Court, but not so as to make the tribunal of the referee a public court of justice.

25. Subject to any such order as last aforesaid, the referee shall have the same authority in the conduct of any reference or trial as a Judge of the High Court when presiding at any trial before him. 275
Referee to have authority of Judge.

26. Nothing in these Rules contained shall authorize any referee to commit any person to prison or to enforce any order by attachment or otherwise. 279
But not to commit to prison.

27. The referee may, before the conclusion of any trial before him, or by his report under the reference made to him, submit any question arising therein for the decision of the Court, or state any facts specially with power to the Court to draw inferences therefrom, and in any such case the order to be made on such submission or statement shall be entered as the Court may direct. 280
Referee may submit questions to the Court.

28. The Court shall have power to require any explanations or reasons from the referee, and to remit the cause or matter, or any part thereof, for re-trial or further consideration, to the same or any other referee; or the Court may decide the question referred to any referee on the evidence taken before him, either with or without additional evidence, as the Court may direct. 281
Court may remit case, or decide on evidence taken.

ORDER XXXII.

EVIDENCE GENERALLY.

1. In the absence of any agreement between the parties, and subject to these Rules, the witnesses at the trial of any action or at any assessment of damages, shall be examined *viva voce* and in open Court, but the Court or a Judge may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing or trial, on such conditions as the Court or Judge may think reasonable, or that any witness whose attendance in Court ought for some sufficient cause to be dispensed with, be examined before an examiner; provided that where it appears to the Court or Judge that the other party *bona fide* desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit. 282
Evidence on trial of action.

283

Evidence on
motion, or
petition.

2. Upon any motion, petition or summons, evidence may be given by affidavit; but any person having made an affidavit to be used, or which shall be used on any motion, petition or other proceeding before the court, shall be bound to attend for the purpose of being cross-examined, on being served with a writ of subpoena *ad testificandum*, but the court, nevertheless, may act on the evidence before it at the time, and may make such interim order, or otherwise, as appears necessary to meet the justice of the case.

284

Affidavits how
framed.

3. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, except on interlocutory motions, on which statements as to his belief, with the grounds thereof, may be admitted. The costs of every affidavit which shall unnecessarily set forth matters of hearsay, or argumentative matter or copies of or extracts from documents, shall be paid by the party filing the same.

285

Depositions.

4. The Court or a Judge may, in any cause or matter where it shall appear necessary for the purposes of justice, make any order for the examination upon oath before any officer of the Court, or any other person or persons, and at any place, of any witness or person, and may order any deposition so taken to be filed in the Court, and may empower any party to any such cause or matter to give such deposition in evidence therein, on such terms, if any, as the Court or Judge may direct.

ORDER XXXIII.

COMMISSIONS TO EXAMINE WITNESSES.

286

Notice of
motion.

1. Upon an application for a commission to take evidence, the applicant is in the notice of motion to state the name of the commissioner to whom he desires the commission to be issued; and where the opposite party desires to name another commissioner, he is, on the return of the motion, to give notice to the applicant of the name of any other commissioner.

287

Commission
to whom
directed.

2. Upon the hearing of the motion the Court or Judge (or officer before whom the motion is made) may order the issue of the commission directed to the persons so named or to such other person or persons as may seem proper.

288

Particulars to
be stated in
order.

3. The order or certificate for the issue of a commission is to state the name of the commissioner to whom it is to be directed, and whether the examination of witnesses thereunder is to be taken upon oral questions or upon written interrogatories, and also whether or not notice of the execution thereof is to be given to the opposite party; and in case notice is to be so given, then the name and the address of the person on whom such notice is to be served are to be stated in the order.

4. The examination of witnesses under a commission is to be taken upon written interrogatories, and upon such oral questions as may be put by either party upon the subject matter of such interrogatories, or arising out of the answers thereto; or in case all parties consent, the examination may be had altogether upon oral questions. But all oral questions shall be reduced into writing and with the answers thereto returned with the commission.

289

Mode of examination.

5. Where the examination is to take place upon written interrogatories, the interrogatories in chief are to be delivered to the opposite party (unless otherwise ordered) at least 8 days before the issue of the commission; and the cross-interrogatories are to be delivered to the opposite party (unless otherwise ordered) within 4 days after the receipt of the interrogatories in chief; and in default of cross-interrogatories being so delivered, the opposite party may send the commission without cross-interrogatories.

[290

Examination on written interrogatories.

6. An examination may be executed *ex parte*, unless the opposite party shall, upon the hearing of the application for the order or Master's certificate for the issue of the commission, require notice of the execution of the commission, and give the name and place of abode of some person resident within two miles of the place where the commission is to be executed, upon whom notice may be served.

291

Examination *ex parte*.

7. Where notice of the execution of the commission is required to be served, 48 hours' notice shall be sufficient; such notice is to be in writing, stating the time and place of the intended examination, and is to be addressed to the person named for that purpose in the order or certificate for the issue of the commission; and service upon him, or upon a grown up person, at the address stated in the order or Master's certificate, shall be sufficient. If the name or address stated in such order or certificate shall prove to be illusory or fictitious, or if the party so notified shall fail to attend, pursuant to the notice, the commission may be executed *ex parte*.

292

Notice of execution of commission.

8. In the event of any witness on his examination, cross-examination or re-examination, producing any book, document, letter, paper or writing, and refusing for good cause to be stated in his deposition, to part with the original thereof, then a copy thereof, or extract therefrom, certified by the commissioners or commissioner present to be a true and correct copy or extract, shall be annexed to the witnesses' deposition.

293

Copies as evidence.

9. Every witness to be examined under the commission shall be examined on oath, affirmation, or otherwise in accordance with his religion, by or before the said commissioners or commissioner.

294

Oath of witness.

295
Examination
through an
interpreter.

10. If any one or more of the witnesses do not understand the English language (the interrogatories, cross-interrogatories, and *viva voce* questions, if any, being previously translated into the language with which he or they is or are conversant), then the examination shall be taken in English through the medium of an interpreter or interpreters, to be nominated by the commissioners or commissioner, and to be previously sworn according to his or their several religions by or before the said commissioners or commissioner truly to interpret the questions to be put to the witness or witnesses, and his and their answers thereto.

296
Depositions to
be signed.

11. The depositions to be taken under and by virtue of the said commission shall be subscribed by the witness or witnesses, and by the commissioners or commissioner who shall have taken such depositions.

297
Return of
commission
and use there-
of as evidence.

12. The interrogatories, cross-interrogatories, and depositions, together with any documents referred to therein, or certified copies thereof or extracts therefrom, shall be sent to the judge or officer on or before such day as may be ordered in that behalf, enclosed in a cover under the seal or seals of the said commissioners or commissioner, and office copies thereof may be given in evidence on the trial of the action, by and on behalf of the said parties respectively, saving all just exceptions, without any other proof of the absence from this country of the witness or witnesses therein named, than an affidavit of the solicitor or agent of the party, as to his belief of such absence.

298
Costs.

13. Where, upon the application for a commission to take evidence, the opposite party shall desire to join in the commission and examine witnesses on his own behalf thereunder, or shall name a commissioner, each party is to pay the cost of the commission consequent upon the examination of his witnesses and the appointment of his commissioner, without prejudice to the question by whom such costs are ultimately to be borne: and if for any reason the commissioner named by either party shall refuse to act in the execution of the commission upon receiving 48 hours' notice in writing from the other of them so to do, the commission may be executed by the commissioner giving such notice alone.

299
Stay of action.

14. The trial of the action shall be stayed until the return of the commission.

300
Order for com-
mission to be
read as includ-
ing above par-
ticulars.

15. Every order for a commission shall be read as if it contained the above particulars, and shall not set forth the same, but may contain any variations therefrom, and any other directions, which the Court or Judge shall see fit to make.

ORDER

ORDER XXXIV.

EVIDENCE BY AFFIDAVIT.

- 301**
1. In case the parties in any action consent to the evidence being taken by affidavit as between the plaintiff and the defendant, the plaintiff within 14 days after such consent has been given, or within such time as the parties may agree upon, or a Judge in Chambers may allow, shall file his affidavits and deliver to the defendant or his solicitor a list thereof. When to be filed by plaintiff.
- 302**
2. The defendant within 14 days after delivery of such list, or within such time as the parties may agree upon, or a Judge in Chambers may allow, shall file his affidavits and deliver to the plaintiff or his solicitor a list thereof. When to be filed by defendant.
- 303**
3. Within 7 days after the expiration of the said 14 days, or such other time as aforesaid, the plaintiff shall file his affidavits in reply, which affidavits shall be confined to matter strictly in reply, and shall deliver to the defendant or his solicitor a list thereof. Filing affidavits in reply.
- 304**
4. Where the evidence is taken by affidavit, any party desiring to cross-examine a deponent who has made an affidavit filed on behalf of the opposite party, may serve upon the party by whom such affidavit has been filed, a notice in writing, requiring the production of the deponent for cross-examination before the Court at the trial, such notice to be served at any time before the expiration of 14 days next after the end of the time allowed for filing affidavits in reply, or within such time as in any case the Court or a Judge may specially appoint; and unless such deponent is produced accordingly, his affidavit shall not be used as evidence unless by the special leave of the Court. The party producing such deponent for cross-examination shall not be entitled to demand the expenses thereof in the first instance from the party requiring such production. Cross-examination on affidavit.
- 305**
5. The party to whom such notice as is mentioned in the last preceding Rule is given, shall be entitled to compel the attendance of the deponent for cross-examination in the same way as he might compel the attendance of a witness to be examined. Compelling attendance of witness.
- 306**
6. Where the evidence in any action is under this Order taken by affidavit, the notice of motion for judgment thereon shall be given at the same time or times after the close of the evidence, as in other cases is by these Rules provided after the close of the pleadings. Notice of motion for judgment.

ORDER XXXV.

MOTION FOR NEW TRIAL IN JURY CASES.

307
Application
to what Court.

1. Where there has been a trial by a jury, any application for a new trial shall be to a Divisional Court.

308
Application
how made.

2. The application for a new trial shall be by motion calling on the opposite party to shew cause at the expiration of 8 days from the date of the order, or so soon after as the case can be heard, why a new trial should not be directed.

309
Time to
move.

3. The application shall be made within the first 4 days of the sittings of the Divisional Court, for hearing such applications which may take place next after the trial ;

(a) In case the decision of a question raised at the trial is reserved, and is not given until the sittings aforesaid by the Judge reserving the same, all motions respecting the trial shall be made within 10 days after the day on which the decision is given, if so many days expire in such sittings, and if not, then within the first 4 days of the ensuing sittings ; and until the time for moving as aforesaid has expired, judgment shall not be signed unless the Judge who tried the action certifies in the manner hereinafter provided ;

(b) In case of a trial during the sittings of a divisional court, all motions respecting the same shall be made within 6 days after the day on which the verdict is rendered, if so many days expire in such sittings, and if not, then within the first 4 days of the ensuing sittings ; and until the time for moving as aforesaid has expired, judgment shall not be signed unless the Judge who tried the action certifies under his hand, that in his opinion execution ought to issue in such action forthwith, or at some day to be named in such certificate, and subject or not to any condition or qualification.

310
Service of
order nisi.

4. A copy of the order shall be served on the opposite party within 4 days from the time of the same being made.

311
Restrictions
on new trials.

5. A new trial shall not be granted on the ground of misdirection or of the improper admission or rejection of evidence, unless in the opinion of the Court to which the application is made some substantial wrong or miscarriage has been thereby occasioned in the trial of the action ; and if it appear to such Court that such wrong or miscarriage affects part only of the matter in controversy, the Court may give final judgment as to part thereof, and direct a new trial as to the other part only.

312
New trial as to
part.

6. A new trial may be ordered on any question in an action, whatever be the grounds for the new trial, without interfering with the finding or decision upon any other question.

7.

7. An order to shew cause shall be a stay of proceedings in the Stay of proceedings.
 action, unless the Court shall order that it shall not be so as to
 the whole or any part of the action.

313

8. On the argument of an order to shew cause, the counsel of Counsel
 the party supporting the application shall begin, and shall state supporting application to
 fully the grounds of the application, and shall have the reply. begin and have
 reply.

314

ORDER XXXVI.

MOTION FOR JUDGMENT.

1. Except where by the Act or by these Rules it is provided How judgment
 that judgment may be obtained in any other manner, the judg- obtained.
 ment of the Court shall be obtained by motion for judgment.

315

2. Where at or after the trial of an action by a jury, the Motion where
 Judge has directed that any judgment be entered, any party judgment at
 may, without any leave reserved, apply to set aside such judg- trial wrong on
 ment, and enter any other judgment, on the ground that the facts found.
 judgment directed to be entered is wrong by reason of the
 Judge having caused the finding to be wrongly entered with
 reference to the finding of the jury upon the question or
 questions submitted to them.

316

3. Where, at or after the trial of an action before a Judge, Motion where
 the Judge has directed that any judgment be entered, any judgment is
 party may, without any leave reserved, apply to set aside such wrong on find-
 judgment and to enter any other judgment, upon the ground ing entered.
 that, upon the finding as entered, the judgment so directed is
 wrong;

317

(a) An application under this Rule may be to a Divisional
 Court of the High Court or to the Court of Appeal.

4. Where issues have been ordered to be tried, or issues or After trial of
 questions of fact to be determined in any manner, and there is issues of fact.
 no direction of a Court or Judge for the entry of judgment, the
 plaintiff may set down the action on motion for judgment as soon
 as such issues or questions have been determined. If he does
 not so set it down, and give notice thereof to the other parties,
 within 10 days after his right so to do has arisen, then after
 the expiration of such 10 days any defendant may set down
 the action on motion for judgment, and give notice thereof to
 the other parties.

318

5. Where issues have been ordered to be tried, or issues or After trial of
 questions of fact to be determined, in any manner, and some some only of
 only of such issues or questions of fact have been tried or deter- the issues of
 mined fact.

319

mined, any party who considers that the result of such trial or determination renders the trial or determination of the others of them unnecessary, or renders it desirable that the trial or determination thereof should be postponed, may apply to the Court or a Judge for leave to set down the action on motion for judgment, without waiting for such trial or determination. And the Court or Judge may, if satisfied of the expediency thereof, give such leave, upon such terms, if any, as shall appear just, and may give any directions which may appear desirable as to postponing the trial of the other questions of fact.

320

No motion
after one year.

6. No action shall, except by leave of the Court or a Judge, be set down on motion for judgment after the expiration of one year from the time when the party seeking to set down the same first became entitled so to do.

321

Postponement
of motion by
Court.

7. Upon a motion for judgment, or for a new trial, the Court may, if satisfied that it has before it all the materials necessary for finally determining the questions in dispute, or any of them, or for awarding any relief sought, give judgment accordingly; or may, if it shall be of opinion that it has not sufficient materials before it to enable it to give judgment, direct the motion to stand over for further consideration, and direct such issues or questions to be tried or determined, and such accounts and inquiries to be taken and made as it may think fit.

322

Summary relief on motion upon admissions in pleadings.

8. Any party to an action may at any stage thereof apply to the Court or a Judge for such order as he may, upon any admissions of fact in the pleadings, or in the examination of any other party, be entitled to; and it shall not be necessary to wait for the determination of any other question between the parties; or he may so apply where the only evidence consists of documents and such affidavits as are necessary to prove their execution or identity without the necessity of any cross-examination; or he may so apply where infants are concerned and evidence is necessary so far only as they are concerned, for the purpose of proving facts which are not disputed. The foregoing Rules of this Order shall not apply to such applications, and any such application may be made by motion as soon as the right of the party applying to the relief claimed has appeared from the pleadings. The Court or a Judge may, on any such application, give such relief, subject to such terms, if any, as such Court or Judge may think fit.

323

Pending application turned into motion for judgment or hearing of cause.

9. Where it is made to appear to the Court or a Judge, on the hearing of any application which may be pending before the Court or Judge, that it will be conducive to the ends of justice to permit it, the Court or Judge may direct the application to be turned into a motion for judgment, or a hearing of the cause or matter; and thereupon the Court or Judge may make such order as to the time and manner of giving the evidence in the cause or matter, and with respect to the further prosecution

cution thereof, as the circumstances of the case may require ; and upon the hearing it shall be discretionary with the Court or Judge to either pronounce a judgment or make such order as the Court or Judge deems expedient.

10. Where at any time after the writ of summons has been issued it is made to appear to the Court or a Judge on an *ex parte* application that it will be conducive to the ends of justice to permit a notice of motion for a judgment to be forthwith served, the Court or Judge may order the same accordingly ; and when such permission is granted, the Court or Judge is to give directions, as to the service of the notice of motion and filing of the affidavits, as may be expedient.

324

Motion for judgment by leave after service of writ.

(a) Upon the hearing of such motion the Court may grant or refuse the application or instead of either granting or refusing the same, may give such directions for the examination of either parties or witnesses, or for the making of further inquiries, or with respect to the further prosecution of the suit, as the circumstances of the case may require, and upon such terms as to costs as the Court thinks right.

ORDER XXXVII.

ENTRY OF JUDGMENT.

1. Every judgment shall be entered by the proper officer in the book to be kept for the purpose. The forms in Appendix (I) hereto may be used for entering judgments, with such variations as circumstances may require.

325

Judgment, how entered.

2. Where any judgment is pronounced by the Court or a Judge in Court, the entry of the judgment shall be dated as of the day on which such judgment is pronounced, and the judgment shall take effect from that date.

326

Date of entry when judgment pronounced in Court.

3. In all cases not within the last preceding Rule, the entry of judgment shall be dated as of the day on which the requisite documents are left with the proper officer for the purpose of such entry, and the judgment shall take effect from that date.

327

Date of entry in other cases.

4. Where under the Act or these Rules, or otherwise, it is provided that any judgment may be entered or signed upon the filing of any affidavit or production of any document, the officer shall examine the affidavit or document produced, and if the same be regular and contain all that is by law required, he shall enter judgment accordingly.

328

Entry on affidavit, etc.

5. Where by the Act or these Rules, or otherwise, any judgment may be entered pursuant to any order or certificate, or return

329

Entry on order or certificate.

return to any writ, the production of such order or certificate, sealed with the seal of the Court, or of such return, shall be a sufficient authority to the officer to enter judgment accordingly.

330

Nonsuit.

6. Any judgment of nonsuit, unless the Court or a Judge otherwise directs, shall have the same effect as a judgment upon the merits for the defendant; but in any case of mistake, surprise, accident, or otherwise, any judgment of nonsuit may be set aside on such terms, as to payment of costs and otherwise, as to the Court or a Judge shall seem just.

331

General provisions where a sale is ordered.

7. Where a sale is ordered, the master may cause the property, or a competent part thereof, to be sold either by public auction, private contract, or tender, or part by one mode and part by another, as he may think best for the interest of all parties, and he may fix an upset price or reserved bidding, but such price or bidding must be so fixed at the meeting held by him for the purpose of settling the advertisement, and making the other arrangements preparatory to the sale, and must be notified in the conditions of sale. The master is to settle all necessary conveyances for the purpose of carrying out the sale in case the parties differ, or in case there shall be any persons under any disability (other than coverture) interested in such sale.

332

Master to take account in redemption suits.

8. Upon a reference under a judgment for redemption, the master is, without any special direction, to take an account of what is due to the defendant for principal money and interest, and is to tax to him his costs, and also appoint a time and place or times and places for payment according to the present practice of the court in that behalf.

333

Order on default.

9. In a redemption suit, in default of payment being made according to the report, the defendant is to be entitled on an *ex parte* application in Chambers to a final order of foreclosure against the plaintiff, or to an order dismissing the bill with costs to be paid, by the plaintiff to the defendant, forthwith after taxation thereof.

334

Directions where plaintiff in redemption suit is foreclosed.

10. In a redemption suit where the plaintiff is declared foreclosed, directions may be given either by the final order foreclosing the plaintiff, or by subsequent orders, that all necessary inquiries be made, accounts taken and proceedings had for redemption or foreclosure, or redemption or sale, as against any subsequent incumbrancers, or for the adjustment of the relative rights and liabilities of the original defendants as among themselves, and such order shall have the same force and effect as a judgment obtained at the suit of the original defendant.

335

Procedure where order is for redemption, &c.

11. Where the order is for redemption or foreclosure, or redemption or sale, such proceedings are in such case to be thereupon had, and with the same effect as in a suit for foreclosure

closure or sale, and in such case the last incumbrancer is to be treated as the owner of the equity of redemption.

12. In a suit for foreclosure or sale upon payment by the defendant, or in a suit for redemption upon payment by the plaintiff, or payment of the amount found due, the plaintiff or defendant shall, unless the decree otherwise directs, assign and convey the mortgaged premises in question to the defendant, (or plaintiff, as the case may be,) making the payment, or to whom he may appoint, free and clear of all incumbrances done by him, and deliver up all deeds and writings in his custody or power relating thereto, upon oath, and in case of a corporation the affidavit shall be made by the officer thereof having the custody of such deeds and writings.

336

Assignment of property and delivery of documents.

13. The foregoing rules, 7-12, are to apply to all cases of reference to the master in suits for foreclosure, sale or redemption.

337

Application of rules 7-12.

14. Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court or a Judge on motion without an appeal.

338

Correction of mistakes in judgments and orders.

ORDER XXXVIII.

EXECUTION.

1. A judgment for the recovery by or payment to any person of money may be enforced by any of the modes by which a judgment or decree, for the payment of money, of any of the Superior Courts, might have been enforced at the time of the passing of the said Act.

339

Enforcing judgment for recovery of money.

2. A judgment for the payment of money into Court may be enforced by any mode by which a judgment or decree for that purpose of any such Court might have been enforced at the time of passing the said Act.

340

For payment into Court.

3. A judgment for the recovery or for the delivery of the possession of land may be enforced by writ of possession.

341

For recovery of land.

4. A judgment for the recovery of any property other than land or money may be enforced:

342

For recovery of other property.

By writ for delivery of the property:

By writ of attachment:

By writ of sequestration.

5. A judgment requiring any person to do any act other than the payment of money, or to abstain from doing anything may be enforced by writ of attachment, or by committal.

343

Judgment requiring person to do or leave undone.

6.

344

Meaning of
"Writ of ex-
ecution," and
"issuing of
execution."

6. In these Rules the term "writ of execution" shall include writs of fieri facias, capias, sequestration, and attachment, and all subsequent writs that may issue for giving effect thereto. And the expression "issuing execution against any party" shall mean the issuing of any such process against his person or property as under the preceding Rules of this Order shall be applicable to the case.

345

Judgment for
conditional
relief.

7. Where a judgment is to the effect that any party is entitled to any relief subject to or upon the fulfilment of any condition or contingency, the party so entitled may, upon the fulfilment of the condition or contingency, and demand made upon the party against whom he is entitled to relief, apply to the Court or a Judge for leave to issue execution against such party. And the Court or Judge may, if satisfied that the right to relief has arisen according to the terms of the judgment, order that execution issue accordingly, or may direct that any issue or question necessary for the determination of the rights of the parties be tried in any of the ways in which questions arising in an action may be tried.

346

Judgment
against
partners.

8. Where a judgment is against partners in the name of the firm, execution may issue in manner following:

- (a) Against any property of the partners as such ;
- (b) Against any person who has admitted on the pleadings that he is, or has been adjudged to be a partner ;
- (c) Against any person who has been served, as a partner with the writ of summons, and has failed to appear.

If the party who has obtained judgment claims to be entitled to issue execution against any other person as being a member of the firm, he may apply to the Court or a judge for leave so to do ; and the Court or Judge may give such leave if the liability be not disputed, or if such liability be disputed, may order that the liability of such person be tried and determined in any manner in which any issue or question in an action may be tried and determined.

347

Præcipe for
writ.

9. No writ of execution shall be issued without the party issuing it, or his solicitor, filing a *præcipe* for that purpose. The *præcipe* shall contain the title of the action, the date of the judgment, and of the order, if any, directing the execution to be issued, the names of the parties against whom, or of the firms against whose goods, the execution is to be issued ; and shall be signed by or on behalf of the solicitor of the party issuing it, or by the party issuing it if he do so in person. The forms in Appendix (E) hereto may be used, with such variations as circumstances may require.

10. Every writ of execution shall be indorsed with the name and place of abode or office of business of the solicitor actually suing out the same; and when the solicitor actually suing out the writ shall sue out the same as agent for another solicitor, the name and place of abode of such other solicitor shall also be indorsed upon the writ; and in case no solicitor shall be employed to issue the writ, then it shall be indorsed with a memorandum expressing that the same has been sued out by the plaintiff or defendant in person, as the case may be, mentioning the city, town, or other place, and also the name of the street, and number of the house of such plaintiff's or defendant's residence, if any such there be.

348

Indorsement
of name and
address.

11. Every writ of execution shall bear date of the day on which it is issued. The forms in Appendix (J) hereto may be used, with such variations as circumstances may require.

349

12. In every case of execution the party entitled to execution may levy the poundage, fees, and expenses of execution, over and above the sum recovered.

350

Poundage, etc.

13. Every writ of execution for the recovery of money shall be indorsed with a direction to the sheriff, or other officer or person to whom the writ is directed, to levy the money really due and payable and sought to be recovered under the judgment, stating the amount, and also to levy interest thereon, if sought to be recovered, at the rate of 6 per cent., per annum from the time when the judgment was entered up; provided that in cases where there is an agreement between the parties that more than 6 per cent. interest shall be secured by the judgment, then the indorsement may be accordingly to levy the amount of interest so agreed.

351

Indorsements
on writ.

14. Every person to whom any sum of money or any costs shall be payable under a judgment, shall, immediately after the time when the judgment was duly entered, be entitled to sue out one or more writ or writs of *fieri facias* to enforce payment thereof, subject nevertheless as follows:

352

Fi. fa., how
soon it may
issue.

(a) If the judgment is for payment within a period therein mentioned, no such writ as aforesaid shall be issued until after the expiration of such period;

(b) The Court or Judge at the time of giving judgment, or the Court or a Judge afterwards, may give leave to issue execution before, or may stay execution until any time after the expiration of the period hereinbefore prescribed.

15. A writ of execution if unexecuted shall remain in force for one year only from its issue, unless renewed in the manner hereinafter provided; but such writ may, at any time before

353

Currency of
writ.

H .

its

its expiration, be renewed by the party issuing it, for one year from the date of such renewal, and so on from time to time during the continuance of the renewed writ,—either by being marked in the margin with a memorandum signed by the proper officer who issued such writ, or by his successor in office, stating the date of the day, month, and year of such renewal, or by such party giving a written notice of renewal to the sheriff, signed by the party or his attorney, and having the like memorandum; and a writ of execution so renewed shall have effect, and be entitled to priority, according to the time of the original delivery thereof.

354

Proof of
renewal.

16. The production of a writ of execution, or of the notice renewing the same, purporting to be marked with the memorandum in the last preceding Rule mentioned, shewing the same to have been renewed, shall be sufficient *prima facie* evidence of its having been renewed.

355

Execution
within 6
years.

17. As between the original parties to a judgment, execution may issue at any time within 6 years from the recovery of the judgment.

356

Execution
after 6 years,
or change of
parties.

18. Where 6 years have elapsed since the judgment, or where any change has taken place by death or otherwise in the parties entitled or liable to execution, the party alleging himself to be entitled to execution may apply to the Court or a Judge for leave to issue execution accordingly. And such Court or Judge, if satisfied that the party so applying is entitled to issue execution, may make an order to that effect, or may order that any issue or question necessary to determine the rights of the parties, shall be tried in any of the ways in which any question in an action may be tried. And in either case such Court or Judge may impose such terms as to costs or otherwise, as shall seem just.

357

Execution on
orders.

19. Every order of the Court or a Judge, whether in an action, cause, or matter, may be enforced in the same manner as a judgment to the same effect.

358

In case of per-
sons not
parties.

20. In cases other than those mentioned in Rule 17, any person, not being a party in an action, who obtains any order or in whose favour any order is made, shall be entitled to enforce obedience to such order by the same process as if he were a party to the action; and any person not being a party in an action, against whom obedience to any judgment or order may be enforced, shall be liable to the same process for enforcing obedience to such judgment or order as if he were a party to the action.

359

Application in
lieu of *audita*
querela.

21. No proceeding by *audita querela* shall hereafter be used; but any party against whom judgment has been given may apply to the Court or a Judge for a stay of execution or other

other relief against such judgment, upon the ground of facts which have arisen too late to be pleaded; and the Court or Judge may give such relief, and upon such terms, as may be just.

22. Nothing in any of the Rules of this Order shall take away or curtail any right heretofore existing to enforce or give effect to any judgment or order in any manner or against any person or property whatsoever. 360
Saving of existing rights.

23. Nothing in this Order shall affect the order in which writs of execution may be issued. 361
Order of writs not affected.

ORDER XXXIX.

WRITS OF FIERI FACIAS, &c.

1. Writs of *feri facias* shall have the same force and effect as the like writs have heretofore had, and shall be executed in the same manner in which the like writs have heretofore been executed. 362
Writs of *f. fa.*

2. Writs of *venditioni exponas* may be issued and executed in the same cases and in the same manner as heretofore. 363
Other writs.

ORDER XL.

ATTACHMENT OF THE PERSON.

1. A writ of attachment against the person shall be issued under the same circumstances and in the same manner and shall have the same effect as heretofore according to the practice of the Court of Chancery. 364
Effect of attachment.

2. No such writ of attachment shall be issued without the leave of the Court or a Judge, to be applied for on notice to the party against whom the attachment is to be issued. 365
Leave to issue.

ORDER XLI.

ATTACHMENT OF DEBTS.

1. Where a judgment is for the recovery by, or payment to, any person, of money, the party entitled to enforce the judgment, may without an order examine the judgment debtor upon oath before a Master, or Local Master, or an Examiner, 366
Application for examination of judgment debtor.

or

or before one of the Clerks or Deputy Clerks of the Crown, or before the Judge of the County Court of the County within which such debtor resides, or before any official referee, touching his estate and effects, and as to the property and means he had when the debt or liability which was the subject of the action in which judgment has been obtained against him was incurred, and as to the property and means he still has of discharging the said judgment, and as to the disposal he has made of any property since contracting such debt or incurring such liability, and as to any and what debts are owing to him.

367

Application
for examina-
tion of officers
of corpora-
tions.

2. In case the judgment is against a body corporate, the person entitled to enforce the judgment may in like manner examine any of the officers of such body corporate, upon oath, before the Judge of the County Court, or other officer, referred to in the next preceding rule, touching the names and residences of the stockholders in said body corporate, the amount and particulars of stock held or owned by each stockholder, and the amount paid thereon; also as to any and what debts are owing to the said body corporate; and as to the estate and effects of the body corporate; and as to the disposal made by the body corporate of any property since contracting the debt or liability, in respect of which the said judgment was obtained.

368

Compelling at-
tendance.

3. Any person liable to be examined under either of the preceding two rules may be compelled to attend and testify, and to produce books and documents, in the same manner and subject to the same rules of examination, and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he may be examined, as in the case of a witness.

369

Service of ap-
pointment.

4. Any person liable to be examined under either of the two preceding Rules, may be served with an appointment signed by the Judge or officer; such service to be made at least 48 hours before the time appointed for the examination; and the person to be examined is to be paid the same fees as a witness.

(a) In case of such service, the same shall have the same effect as the service of a Rule or Order under the present practice, for the purposes of the 18th and 19th sections of the Administration of Justice Act, and the 305th section of the Common Law Procedure Act.

370

Court or Judge
may order at-
tachment of
debts.

5. The Court or a Judge may, upon the *ex parte* application of the judgment creditor, or the person entitled to enforce the judgment, either before or after the oral examination mentioned in the preceding two rules, and upon affidavit by himself or his solicitor, or some other person or persons aware of the facts respectively, stating that judgment has been recovered, and that it is still unsatisfied, and to what amount, and that any other person is indebted to the judgment debtor, and is within Ontario,

Ontario, order that all debts owing or accruing from such third person (hereinafter called the garnishee) to the judgment debtor, shall be attached to answer the judgment debt; and by the same or any subsequent order it may be ordered that the garnishee shall appear before the Court or a Judge or an officer of the Court, as such Court or Judge shall appoint, to shew cause why he should not pay the judgment creditor, or the person entitled to enforce the judgment, the debt due from such garnishee to the judgment debtor, or so much thereof as may be sufficient to satisfy the judgment debt.

Order that garnishee appear.

6. Service of an order that debts due or accruing to the judgment debtor shall be attached, or notice thereof to the garnishee in such manner as the Court or Judge shall direct, shall bind such debts in his hands.

371

Order for attachment to bind debts.

7. If the garnishee does not forthwith pay into Court the amount due from him to the judgment debtor or an amount equal to the judgment debt, and does not dispute the debt due or claimed to be due from him to the judgment debtor, or if he does not appear upon summons, then the Court or Judge may order execution to issue, and it may issue accordingly without any previous writ or process, to levy the amount due from such garnishee, or so much thereof as may be sufficient to satisfy the judgment debt.

372

Order for execution against garnishee.

8. If the garnishee disputes his liability, the Court or Judge, instead of making an order that execution shall issue, may order that any issue or question necessary for determining his liability be tried or determined in any manner in which any issue or question in an action may be tried or determined.

373

Issue where garnishee disputes liability.

9. Where in proceeding to obtain an attachment of debts it is suggested by the garnishee that the debt sought to be attached belongs to some third person, or that any third person has a lien or charge upon it, the Court or Judge may order such third person to appear and state the nature and particulars of his claim upon such debt.

374

Order for third person to appear.

10. After hearing the allegations of such third person under such order, and of any other person whom by the same or any subsequent order the Court or a Judge may order to appear, or in case of such third person not appearing when ordered, the Court or Judge may order execution to issue to levy the amount due from such garnishee, or may order any issue or question to be tried or determined according to the preceding Rules of this Order, and may bar the claim of such third person, or may make such other order as such Court or Judge shall think fit, upon such terms, in all cases, with respect to the lien or charge (if any) of such third person, and to costs, as the Court or Judge shall think just and reasonable.

375

Proceedings as to claims of third persons.

376

Garnishee discharged by payment.

11. Payment made by or execution levied upon the garnishee under any such proceeding as aforesaid shall be a valid discharge to him as against the judgment debtor, to the amount paid or levied, although such proceedings may be set aside or the judgment reversed.

377

Attachment book to be kept by proper officer.

12. There shall be kept by the proper officer a debt attachment book, and in such book entries shall be made of the attachment and proceedings thereon, with names, dates, and statements of the amount recovered, and otherwise; and copies of any entries made therein may be taken by any person upon application to the proper officer.

378

Costs of application.

13. The costs of any application for an attachment of debts and of any proceedings arising from or incidental to such application, including the examination of the debtor, shall be in the discretion of the Court or a Judge.

ORDER XLII.

WRIT OF POSSESSION (LANDS).

379

Writ to recover possession of land.

1. A judgment that a party do recover possession of any land may be enforced by writ of possession in manner heretofore used in actions of ejectment in the Superior Courts of Common Law.

380

Writ may issue on filing affidavit.

2. Where by any judgment any person therein named is directed to deliver up possession of any lands to some other person on, or at any specified time after, being served with the judgment, the person prosecuting such judgment shall, without any order for that purpose, be entitled to sue out a writ of possession on filing an affidavit shewing due service of such judgment and that the same has not been obeyed.

381

Effect of writ.

3. A writ of possession shall have the effect of a writ of assistance as well as of a writ of *habere facias possessionem*.

ORDER XLIII.

WRIT OF DELIVERY (CHATELS).

382

How issued and enforced.

A writ for delivery of any property other than land or money may be issued and enforced in the manner heretofore in use in actions of detinue in the Superior Courts of Common Law.

ORDER

ORDER XLIV.

CHANGE OF PARTIES BY DEATH, &c.

1. An action shall not become abated by reason of the marriage, death, or bankruptcy of any of the parties, if the cause of action survive or continue, and shall not become defective by the assignment, creation, or devolution of any estate or title *pendente lite*. 383
Action not to abate by reason of marriage etc.

2. In case of an assignment, creation, or devolution of any estate or title *pendente lite*, the action may be continued by or against the person to or upon whom such estate or title has come or devolved. 384
Assignment *pendente lite*.

3. Where by reason of marriage, death, or bankruptcy, or any other event occurring after the commencement of an action and causing a change or transmission of interest or liability, or by reason of any person interested coming into existence after the commencement of the action, it becomes necessary or desirable that any person not already a party to the action should be made a party thereto, or that any person already a party thereto should be made a party thereto in another capacity, an order that the proceedings in the action shall be carried on between the continuing parties to the action and such new party, may be obtained on *præcipe*, upon an allegation of such change, or transmission of interest or liability, or of such person interested having come into existence. 385
Order to add parties on change of interest how obtained.

4. An order so obtained shall, unless the Court or Judge shall otherwise direct, be served upon the continuing party or parties to the action or their solicitors, and also upon each such new party (unless the person making the application be himself the only new party), and the order shall from the time of such service, subject nevertheless to the next 5 following Rules be binding on the persons served therewith. 386
Service of order.

5. Where any person who is under no disability, or under no disability other than coverture, or being under any disability other than coverture, has a guardian *ad litem* in the action, shall be served with such order, such person may apply to the Court or a Judge to discharge or vary such order at any time within 12 days from the service thereof. 387
Application to discharge order.

6. Upon every copy of such order served, there shall be indorsed a memorandum in the form or to the effect set forth in Form 20 in Appendix (B) hereto. 388
Indorsement on order.

7. Where any person being under any disability other than coverture, and not having had a guardian *ad litem* appointed in the action, is served with any such order, such person may apply 389
Application to discharge order by persons under disability

apply to the Court or a Judge to discharge or vary such order, at any time within 12 days from the appointment of a guardian *ad litem* for such party, and until such period of 12 days shall have expired such order shall have no force or effect as against such last mentioned person.

390

Application to discharge order when served out of Ontario.

8. Where the order is served out of Ontario, the party served is to have the same time to apply to discharge the order, as a defendant has to appear to a writ of summons so served; but an application may be made for shortening the time.

391

Application in case of order allowing service by publication.

9. Where the Court or a Judge authorizes publication instead of service, the Court or Judge is at the same time to appoint such time for applying to discharge the order as seems proper.

ORDER XLV.

TRANSFERS AND CONSOLIDATION OF ACTIONS.

392

Transfer by order.

1. Actions may be transferred from one Division of the High Court to another Division by order of the Presidents of such Divisions.

393

Presidents of Divisions to make transfers necessary to equalize business.

2. The Presidents of the Queen's Bench, Chancery and Common Pleas Divisions shall, from time to time as occasion may require, meet together and examine the list of motions, rules and other matters set down for argument in each Divisional Court of the High Court, and direct the transfer of such and so many of the said motions, rules and other matters from one Divisional Court to another as shall, as nearly as possible in their judgment, equalize the amount of business to be done by the said Courts.

394

Transfer under administration order.

3. Where an order has been made for the administration of the assets of any testator or intestate, a Judge of any Division shall have power, without any further consent, to order the transfer to such Division of any action pending in any other Division by or against the executors or administrators of the testator or intestate whose assets are being so administered.

395

Consolidation of actions.

4. Actions in any Division or Divisions may be consolidated by order of the Court or a Judge in the manner heretofore in use in the Superior Courts of Common Law.

ORDER

ORDER XLVI.

INTERLOCUTORY ORDERS AS TO MANDAMUS, INJUNCTIONS, OR
INTERIM PRESERVATION OF PROPERTY, &C.

1. Where by any contract a *prima facie* case of liability is established, and there is alleged as matter of defence a right to be relieved wholly or partially from such liability, the Court or a Judge may make an order for the preservation or interim custody of the subject-matter of the litigation, or may order that the amount in dispute be brought into Court or otherwise secured.

396

Order for interim preservation of property.

2. It shall be lawful for the Court or a Judge, on the application of any party to an action, to make any order for the sale, by any person or persons named in such order, and in such manner and on such terms as to the Court or Judge may seem desirable, of any goods, wares, or merchandise which may be of a perishable nature or likely to injure from keeping, or which for any other just and sufficient reason it may be desirable to have sold at once.

397

Sale of perishable goods.

3. It shall be lawful for the Court or a Judge, upon the application of any party to an action, and upon such terms as may seem just, to make any order for the detention, preservation, or inspection of any property, being the subject of such action; and for all or any of the purposes aforesaid to authorize any person or persons to enter upon or into any land or building in the possession of any party to such action; and for all or any of the purposes aforesaid to authorize any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

398

Order for detention and inspection of property.

4. An application for an order under section 17, sub-section 8, of the Act, or under Rules 2 or 3 of this Order, may be made to the Court or a Judge by any party. If the application be by the plaintiff for an order under the said sub-section 8, it may be made either *ex parte* or on notice, and if for an order under the said Rules 2 or 3 of this Order, it may be made, after notice to the defendant, at any time after the issue of the writ of summons, and if it be by any other party, then on notice to the plaintiff, and at any time after appearance, by the party making the application.

399

Application under rules 2 & 3.

5. An application for an order under Rule 1 may be made by the plaintiff at any time after his right thereto appears from the pleadings, or, if there be no pleadings, is made to appear by affidavit or otherwise to the satisfaction of the Court or a Judge.

400

Application under rule 1.

6.

401

Writ of injunction abolished.

6. No writ of injunction shall be issued in any case. An injunction shall be by a judgment or order, and any such judgment or order shall have the effect which a writ of injunction now has.

402

Amount of lien claimed may be paid into Court, and property delivered up.

7. Where an action is brought to recover, or a defendant in his statement of defence seeks by way of counter-claim to recover, specific property other than land, and the party from whom such recovery is sought does not dispute the title of the party seeking to recover the same, but claims to retain the property by virtue of a lien or otherwise as security for any sum of money, the Court or a Judge, at any time after such last mentioned claim appears from the pleadings, or, if there be no pleadings, by affidavit or otherwise to the satisfaction of such Court or Judge, may order that the party claiming to recover the property be at liberty to pay into Court, to abide the event of the action, the amount of money in respect of which the lien or security is claimed, and such further sum (if any) for interest and costs as such Court or Judge may direct, and that upon such payment into Court being made, the property claimed be given up to the party claiming it.

403

Conduct of sale under trusts of will or settlement.

8. Where the trusts of any will or settlement are being administered, and a sale is ordered of any property vested in the trustees of such will or settlement upon trust for sale or with power of sale by such trustees, the conduct of such sale shall be given to such trustees, unless the Judge shall otherwise direct.

ORDER XLVII.

MOTIONS AND OTHER APPLICATIONS.

404

Application to Court or Judge in Court to be by motion.

1. Where by these Rules any application is authorized to be made to the Court or a Judge in an action, such application shall be made by motion.

405

No rule or order nisi except when authorized.

2. No rule or order to shew cause shall be granted in any action or matter, except in the cases in which an application for such rule or order is expressly authorized by these Rules.

406

Notice of motion when orders *ex parte* can be made.

3. Except where (by the practice existing at the time of the passing of the said Act) any order or rule has heretofore been made *ex parte* absolute in the first instance, and except where by these Rules it is otherwise provided, and except where the motion is for a rule or summons to shew cause only—no motion shall be made without previous notice to the parties affected thereby. But the Court or Judge, if satisfied that the delay caused by proceeding in the ordinary way would or might entail irreparable or serious mischief, may make any order *ex parte*

parte, upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court or Judge may think just; and any party affected by such order may move to set aside or vary the same.

4. Unless the Court or Judge give special leave to the contrary, there must be at least 2 clear days between the service of a notice of motion and the day named in the notice for hearing the motion. 407
2 clear days' notice.

5. If on the hearing of a motion or other application, the Court or Judge shall be of opinion that any person to whom notice has not been given ought to have had such notice, the Court or Judge may either dismiss the motion or application, or adjourn the hearing thereof in order that such notice may be given, upon such terms, if any, as the Court or Judge may think fit to impose. 408
All proper parties not served.

6. The hearing of any motion or application may from time to time be adjourned upon such terms, if any, as the Court or Judge shall think fit. 409
Adjournment.

7. The plaintiff shall, without any special leave, be at liberty to serve any notice of motion or other notice, or any petition or summons upon any defendant, who, having been duly served with a writ of summons to appear in the action, has not appeared within the time limited for that purpose. 410
Service before appearance.

8. The plaintiff may also, without any special leave, serve a notice of motion for an injunction, and may, by leave of the Court or a Judge to be obtained *ex parte*, serve any other notice of motion, upon any defendant along with the writ of summons, or at any time after service of the writ of summons and before the time limited for the appearance of such defendant. 411
Service with writ or before time for appearance.

ORDER XLVIII.

APPLICATIONS AT CHAMBERS.

1. Every application at chambers in Toronto authorized by these Rules and not made *ex parte* shall be made in a summary way, on notice instead of by summons. 412
Applications to be made in a summary way.

2. An order shall be in the Form No. 109 in Appendix (H) hereto, with such variations as circumstances require. It shall be marked with the name of the Judge or officer by whom it is made. 413
Form of order.

3. Every appeal to the Court from any decision at chambers shall be by motion, and shall be made within 8 days after the decision. 414
Manner and time of appealing therefrom.

decision appealed against, or if no Court to which such appeal can be made shall sit within such 8 days, then on the first day on which any such Court may be sitting after the expiration of such 8 days.

ORDER XLIX.

OFFICERS AND OFFICES.

415

Officers to be auxiliary to one another.

1. All officers shall be auxiliary to one another for promoting the correct, convenient, and speedy administration of business.

416

Judgment Clerks.

2. Two of the officers of the High Court shall, in addition to their other duties, be judgment clerks of the High Court, for the purpose of settling the form and terms of such special judgments as may be referred to them for that purpose by any Divisional Court, or a Judge of any Division, or by the Master in Chambers.

417

Deputy Clerks of the Crown and Deputy Registrars.

3. Where the offices of Deputy Clerk of the Crown and Deputy Registrar in any county are not held by the same person, the Deputy Clerk of the Crown shall in actions in the Queen's Bench and Common Pleas Divisions have the powers and duties of a Deputy Registrar (not local Master), in addition to the powers and duties heretofore belonging to a Deputy Clerk of the Crown; and the Deputy Registrar shall in actions in the Chancery Division have the powers and duties of a Deputy Clerk of the Crown, in addition to the powers and duties heretofore belonging to a Deputy Registrar. Where the two offices are united in the same person he shall be styled Local Registrar of the High Court; and every reference in these Orders to the said two offices, or either of them, shall be deemed to apply to the Local Registrar.

418

Entry of orders.

4. Subject to the foregoing Orders, where an action is commenced in the office of a Deputy Registrar or Deputy Clerk of the Crown or Local Registrar, all such orders in the action as require to be entered (except orders made by the County Court Judge or the local Master of the county under the authority and jurisdiction vested in them under these Rules) shall be entered at Toronto; and, where necessary, an office copy of the order so entered shall be transmitted or delivered to the Deputy Registrar, Deputy Clerk of the Crown or Local Registrar to be filed with the proceedings in the action.

419

Entry of judgment and issue of execution by Deputy Registrars.

5. Sections 302 and 303 of the Common Law Procedure Act and section 7 of the "Execution Act" shall apply as nearly as may be to Deputy Registrars as well as Deputy Clerks of the Crown.

6. There shall be an officer of the Supreme Court to be named the Master in Chambers, who, in regard to all actions and matters in the High Court, shall have the power, authority and jurisdiction heretofore in like cases possessed in the Superior Courts respectively, by the Clerk of the Crown and Pleas of the Court of Queen's Bench and by the Referee in Chambers of the Court of Chancery ;

420

Master in
Chambers.

(a) The said officer shall not have authority or jurisdiction in respect of the matters excepted in regard to the Clerk of the Crown and Pleas of the Queen's Bench by the Rules of the Judges of the Courts of Queen's Bench and Common Pleas of Hilary Term, 1870, or in respect of the matters excepted in regard to the Referee by the 560th of the orders of the Court of Chancery, or in respect of appeals from Judges of County Courts or Local Masters, or in respect of any other matter which by these orders is expressly required to be done by a Judge of the High Court.

7. Any official Referee, upon the request of the Master in Chambers or of a Judge of the High Court, may sit with or for such Master; and while sitting for him shall have all the authority and power of such Master, but shall not be entitled to any fees.

421

Official
referee may
sit in cham-
bers for
master.

8. The County Court Judge of the County in which an action is brought shall, from and after the first day of January, 1882, have the same power and authority in the action as the Master in Chambers aforesaid, save and except that the authority of such County Court Judges shall not extend to granting leave for service out of Ontario, or to allowing service out of Ontario, of a writ of summons or of notice of a writ of summons; provided also that in counties in which there is a local Master who does not practise as a Barrister or Solicitor, and who has not taken out a certificate to practise, such local Master shall, in regard to causes and actions brought in his county in the Chancery division, have (in addition to his powers as a local Master) the jurisdiction, power, and authority hereinbefore given to the County Court Judge; and in such counties the County Court Judge shall have and exercise the said jurisdiction, power, and authority only in regard to causes and actions brought in his county in the Queen's Bench and Common Pleas Divisions;

422

Authority of
County Court
Judges.

(a) The power and authority of a County Court Judge under this Rule shall not apply to any action in which the writ is issued in the County of York, or (except by consent) to any action wherein the solicitors for all parties do not reside or have not offices in the county town of the county in which the action is brought, or wherein any party who has no solicitor does not reside in, or has not a place of business in, the county or union of counties. Such consent by

a

a solicitor may be general by a memorandum in writing filed in the office of the Deputy Registrar or Deputy Clerk of the Crown; or may be confined to any particular action or application and be manifested as in the case of any other consent by a solicitor in a cause or matter.

423

Ex parte
orders by
County Judge.

9. The power and authority of a County Court Judge to make *ex parte* orders shall not be subject to the limitation set forth in the preceding paragraph (a), and may be made though the Solicitors for all parties do not reside in the same County.

424

Payment out
of Court.

10. But no money shall be distributed or paid out for costs or otherwise, without the order of a Divisional Court, or of a Judge of the High Court in court or chambers, (except money paid into court by a defendant by way of satisfaction or amends, and not belonging in whole or in part to an infant or *feme covert*); and on the application for such order, the Court or Judge may review, amend or refer back to the master his report or order, or make such other order as the Court or Judge deems proper.

425

Manner of
application.

11. Every application to a County Court Judge or local Master under the Act or these Rules shall, where notice of the application is necessary, be made in a summary way by summons;

(a) A summons shall be in the form No. 108 in Appendix (H) hereto, with such variations as circumstances require. It shall be addressed to all the persons on whom it is to be served;

(b) A summons shall be prepared by the applicant or his solicitor, and shall be signed by the proper officer and when so signed shall be deemed to be issued. The person obtaining a summons shall leave a copy thereof with the officer signing the same.

426

Power to refer
to Judge of
High Court.

12. If any matter appears to the County Court Judge, Master in Chambers or local Master to be proper for the decision of a Judge of the High Court, he may refer the same to such Judge; and such Judge of the High Court may either dispose of the matter, or refer the same back to the County Court Judge or officer aforesaid with such directions as such Judge of the High Court may think fit.

427

Appeal.

13. Any person affected by any order or decision of the County Judge or officer aforesaid may appeal therefrom to a Judge of the High Court at Chambers;

(a) Such appeal may be made notwithstanding that the order or decision was in respect of a proceeding or matter as to which the Judge or officer aforesaid had jurisdiction only by consent;

(b)

(b) The appeal shall be by motion, on notice served within 4 days after the decision complained of; or within such further time as may be allowed by a Judge of the High Court or by the County Court Judge or officer aforesaid whose decision is complained of;

(c) The motion shall be made within 8 days after the decision has been made which is appealed against, or within such further time as may be allowed as aforesaid;

(d) In such case, the Deputy Registrar, Deputy Clerk of the Crown or local Registrar, shall, on a præcipe being filed in this behalf, transmit to the proper officer of the High Court of Justice all documents filed in his office and required for disposing of the appeal; and the same shall be transmitted by mail, prepaid and registered, except where all parties interested in such documents file a consent to any other mode of transmission. The said documents shall be returned in like manner when the appeal has been disposed of;

(e) The appeal shall be no stay of proceedings unless so ordered by a Judge of the High Court or by the Judge or officer whose decision is complained of.

ORDER L.

COSTS.

1. Subject to the provisions of the Act, the costs of and incident to all proceedings in the High Court shall be in the discretion of the Court; but nothing herein contained shall deprive a trustee, mortgagee, or other person of any right to costs out of a particular estate or fund to which he would be entitled according to the rules hitherto acted upon in Courts of Equity: 428
To be in discretion of Court.
Provided, that where any action or issue is tried by a jury, the costs shall follow the event, unless, upon application made at the trial, for good cause shewn, the Judge before whom such action or issue is tried or the Court shall otherwise order. Saving as to trustee, etc.
Of issues tried before jury.

2. In any cause or matter in which security for costs is required, the security shall be of such amount and be given at such time or times and in such manner and form, as the Court or a Judge shall direct. 429
Amount of security for costs.

3. Where a bond is to be given as security for costs, it shall unless the Court or a Judge otherwise directs, be given to the party or persons requiring the security, and not to an officer of the Court. 430
Security for costs where given by bond.

4 Where it appears, by the writ of summons, notice, or other proceeding by which a suit is instituted, or by an indorsement thereon, 431
Security for costs, order for.

thereon, that the plaintiff resides out of Ontario, the defendant shall be entitled on præcipe to an order requiring the plaintiff within 4 weeks from the service of the order to give security in \$400 for the defendant's costs of the action staying all further proceedings in the meantime, and directing that in default of such security being given the action be dismissed with costs against such defendant, unless the Court or Judge upon special application for that purpose shall otherwise order.

432

Tariff of fees.

5. Until a tariff of fees payable in stamps or otherwise is provided by Rule of Court, approved by the Lieutenant-Governor in Council, the fees to be so payable shall be the fees now so payable on similar proceedings (if any) in the Courts of Queen's Bench and Common Pleas; and where there is no similar proceeding in those courts, the fees to be so paid shall be the fees now payable on similar proceedings in the Court of Chancery.

433

Copies of documents in possession of another party.

6. As to taking copies of documents in possession of another party, or extracts therefrom, under Rules of Court or any special order, the party entitled to take the copy or extract is to pay the solicitor of the party producing the document for such copy or extract as he may, by writing, require, at the rate of 10 cents per folio; and if the solicitor of the party producing the document refuses or neglects to supply the same, the solicitor requiring the copy or extract is to be at liberty to make it, and the solicitor for the party producing is not to be entitled to any fee in respect thereof.

434

Tender of costs, on service of petition.

7. Where a petition in any cause or matter is served, and notice is given to the party served that in case of his appearance in Court his costs will be objected to, and accompanied by a tender of costs for perusing the same, the amount to be tendered shall be \$5. The party making such payment shall be allowed the same in his costs, provided such service was proper, but not otherwise; but this order is without prejudice to the rights of either party to costs, or to object to costs where no such tender is made, or where the Court or Judge shall consider the party entitled, notwithstanding such notice or tender, to appear in Court.

435

Disallowance of costs of unnecessary proceedings.

8. The Court or Judge may, at the hearing of any cause or matter, or upon any application or procedure in any cause or matter in Court or at Chambers, and whether the same is objected to or not, direct the costs of any pleading, affidavit, evidence, notice to cross-examine witnesses, account, statement, or other proceeding, or any part thereof, which is improper, unnecessary, or contains unnecessary matter, or is of unnecessary length, to be disallowed; or may direct the taxing officer to look into the same and to disallow the costs thereof, or of such part thereof, as he shall find to be improper, unnecessary, or to contain unnecessary matter, or to be of unnecessary length.

In

In such case the party whose costs are so disallowed shall pay the costs occasioned to the other parties by such unnecessary proceeding, matter, or length; and in any case where such question shall not have been raised before and dealt with by the Court or Judge, the taxing officer may look into the same (and, as to evidence, although the same may be entered as read in any decree or order) for the purpose aforesaid, and thereupon the same consequences shall ensue as if he had been specially directed to do so.

436

9. In any case in which, under the preceding Rule No. 8, or any other rule of Court, or by order or direction of a Court or Judge, or otherwise, a party entitled to receive costs is liable to pay costs to any other party, the taxing officer may tax the costs such party is so liable to pay, and may adjust the same by way of deduction or set off, or may, if he shall think fit, delay the allowance of the costs such party is entitled to receive until he has paid or tendered the costs he is liable to pay; or such officer may allow or certify the costs to be paid, and the same may be recovered by the party entitled thereto in the same manner as costs ordered to be paid may be recovered

Set-off of costs.

437

10. Where any party appears upon any application or proceeding in Court or at Chambers, in which he is not interested, or upon which, according to the practice of the Court, he ought not to attend, he is not to be allowed any costs of such appearance, unless the Court or Judge shall expressly direct such costs to be allowed.

Unnecessary appearance in Court or at Chambers.

438

11. There shall be two or more taxing officers of the Supreme Court; and they and each of them shall for the purpose of any proceeding before them or him, have power and authority to administer oaths, and shall, in relation to the taxation of costs, perform all such duties as have heretofore been performed by the Registrar of the Court of Appeal or by any of the Masters, Taxing Officers, Registrars, Deputy Registrars, or other officers of any of the Courts whose jurisdiction is by the Act vested in the High Court of Justice or Court of Appeal; and shall, in respect thereof, have such powers and authorities as previous to the commencement of the Act were vested in any of such officers, including examining witnessess, directing production of books, papers, and documents, making separate certificates or allocaturs, requiring any party to be represented by a separate solicitor; and to direct and adopt all such other proceedings as could be directed and adopted by any such officer on references for the taxation of costs, and taking accounts of what is due in respect of such costs, and such other accounts connected therewith as may be directed by the Court or a Judge.

General powers of taxing officers.

439

12. The preceding Rule shall not be construed as interfering with the power heretofore possessed by local officers to tax costs;

Revision of bills of costs.

(a) Every bill of costs in a suit pending in the Court of Chancery at the commencement of the Act, every bill of costs in any action thereafter brought in any Division of the High Court for the administration of an estate, or for partition, or for the foreclosure, redemption or sale of mortgaged premises, and every bill in any other action where the amount is to be paid out of an estate or out of a fund in Court, or where the amount taxed affects the interest of an infant, shall be subject to revision according to the practice hitherto prevailing in the Court of Chancery: and the Orders of that Court numbered from 310 to 313 inclusive shall in other respects be deemed applicable thereto ;

(b) In other cases any party interested may as of right have the taxation of the local officer revised, without giving the 2 days' notice to the opposite party required in the 353rd section of the Common Law Procedure Act (R. S. O., ch. 50); which section shall in other respects apply to all the divisions of the High Court ;

(c) In the cases last aforesaid, the party desiring the revision shall give notice thereof to the opposite party, and on a præcipe being filed with such local officer, such officer is to transmit the bill to the taxing officer at Toronto for revision, and the practice thereon is to be as provided by the said Chancery Orders ;

(d) Pending such revision, judgment may be entered and execution issued, unless the Court or a Judge otherwise orders; and in case of an execution being so issued, if the amount taxed is reduced on revision, the party entitled to the costs shall forthwith give notice of the reduction and of the amount thereof to the Sheriff or other officer in whose hands the execution had been placed ; and the amount struck off on the revision shall be deducted from the amount indorsed on the execution.

440
Parties to
attend tax-
ations.

13. The taxing officer shall have authority to arrange and direct what parties are to attend before him on the taxation of costs to be borne by a fund or estate, and to disallow the costs of any party whose attendance such officer shall in his discretion consider unnecessary in consequence of the interest of such party in such fund or estate being small or remote, or sufficiently protected by other parties interested.

441
Neglect to
bring in or tax
costs.

14. Where any party entitled to costs refuses or neglects to bring in his costs for taxation, or to procure the same to be taxed, and thereby prejudices any other party, the taxing officer shall be at liberty to certify the costs of the other parties, and certify such refusal or neglect, or may allow such party refusing or neglecting a nominal or other sum for such costs, so as to prevent any other party being prejudiced by such refusal or neglect.

15.

15. As to costs to be paid or borne by another party, no costs are to be allowed which do not appear to the taxing officer to have been necessary or proper for the attainment of justice or defending the rights of the party, or which appear to the taxing officer to have been incurred through over-caution, negligence, or mistake, or merely at the desire of the party.

442

Taxations
between party
and party.

16. Where a solicitor's bill of fees, charges and disbursements as delivered to a client or other person is referred to the Master to be taxed, the solicitor is to give credit for all sums of money by him received from or on account of the said client, and is to refund what, if anything, he may on such taxation appear to have been overpaid;

443

Particulars of
orders for
taxation.

(a) The Master is to tax the costs of the reference and certify what shall be found due to or from either party in respect of the bill and demand and of the cost of the reference, to be paid according to the event of the taxation pursuant to the statute;

(b) The solicitor is not to commence or prosecute any action or suit touching the demand pending the reference without leave of the Court or a Judge;

(c) Upon payment by the said client or other person of what (if anything) may appear to be due to the solicitor, the solicitor (if required) is to deliver to the said client or other person, or as he may direct, all deeds, books, papers, and writings in the said solicitor's possession, custody, or power, belonging to the said client;

(d) The order shall be read as if it contained the above particulars, and shall not set forth the same, but may contain any variations therefrom, and any other directions which the Court or Judge shall see fit to make.

17. The order, when grantable of course, shall be issued on præcipe by the registrar, deputy registrar, local registrar, or deputy clerk of the crown.

444

Order of course
to issue on
præcipe.

18. The rules, orders, and practice of any Court, whose jurisdiction is vested in the High Court of Justice or Court of Appeal, relating to costs, and to the allowance of the fees of solicitors and attorneys, and to the taxation of costs, existing prior to the commencement of the Act, shall, in so far as they are not inconsistent with the Act and the Rules of Court in pursuance thereof, remain in force and be applicable to costs of the same or analogous proceedings, and to the allowance of the fees of solicitors of the Supreme Court and the taxation of costs in the High Court of Justice and Court of Appeal.

445

Application of
former rules,
orders and
practice.

19. The taxing officers shall perform their duties under and subject

446

Supervision of
taxing officers.

subject to any supervision which from time to time may appear to the Judges of the Supreme Court to be necessary or proper, and may by them be directed, in order to secure accuracy and uniformity in the proceedings of the taxing officers.

447
Objection to
taxation.

20. Any party who may be dissatisfied with the allowance or disallowance by the taxing officer, in any bill of costs taxed by him, of the whole or any part of any item or items, may, at any time before the certificate or allocatur is signed, deliver to the other party interested therein, and carry in before the taxing officer, an objection in writing to such allowance or disallowance, specifying therein by a list, in a short and concise form, the item or items, or parts or part thereof, objected to, and may thereupon apply to the taxing officer to review the taxation in respect of the same.

448
Review of
taxation by
taxing officer.

21. Upon such application the taxing officer shall reconsider and review his taxation upon such objections, and he may, if he shall think fit, receive further evidence in respect thereof, and, if so required by either party, he shall state either in his certificate of taxation or allocatur, or by reference to such objection, the grounds and reasons of his decision thereon, and any special facts or circumstances relating thereto.

449
Review of
taxation by
judge.

22. Any party who may be dissatisfied with the certificate or allocatur of the taxing officer, as to any item or part of an item which may have been objected to as aforesaid, may apply to a Judge at Chambers for an order to review the taxation as to the same item or part of an item, and the Judge may thereupon make such order as to the Judge may seem just; but the certificate or allocatur of the taxing officer shall be final and conclusive as to all matters which shall not have been objected to in manner aforesaid.

450
Evidence
thereon.

23. Such application shall be heard and determined by the Judge upon the evidence which shall have been brought in before the taxing officer, and no further evidence shall be received upon the hearing thereof unless the Judge shall otherwise direct.

ORDER LI.

NOTICES AND PAPER, &c.

451
Notices to be
written or
printed.

1. All notices required by these Rules shall be in manuscript or print, or partly in manuscript and partly in print, unless expressly authorized by a Court or Judge to be given orally.

452
Regulations as
to printing
proceedings.

2. Proceedings, if printed, shall be printed with pica type leaded, on good paper, of foolscap size.

453
Affidavits.

3. Any affidavit may be sworn to either in print or in manuscript, or partly in print and partly in manuscript.

ORDER

ORDER LII.

TIME.

1. Where by these Rules, or by any judgment or order given ⁴⁵⁴ Months shall mean calendar months.
or made after the commencement of the Act, time for doing any act or taking any proceeding is limited by months, not expressed to be lunar months, such time shall be computed by calendar months.

2. Where any limited time less than 6 days from or after ⁴⁵⁵ Period of less than 6 days.
any date or event is appointed or allowed for doing any act or taking any proceeding, holidays, as defined by the Interpretation Act, shall not be reckoned in the computation of such limited time.

3. In all cases in which any particular number of days not ⁴⁵⁶ Days, how computed.
expressed to be clear days, is prescribed by the Act or the Orders or practice of the Court, the same shall be reckoned exclusively of the first day, and inclusively of the last day.

4. Where the time for doing any act or taking any proceeding expires on a Sunday, or other day on which the offices are closed, and by reason thereof such act or proceeding cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken if done or taken on the day on which the offices shall next be open. ⁴⁵⁷ Where last day is Sunday.

5. The time for delivering or amending any pleading may ⁴⁵⁸ Enlargement of time by consent.
be enlarged by consent in writing, without application to the Court or a Judge.

6. Service of pleadings, notices, summonses, orders, rules and ⁴⁵⁹ Service.
other proceedings shall be effected before the hour of 6 in the afternoon, except on Saturdays, when it shall be effected before the hour of 2 in the afternoon. Service effected after 6 in the afternoon on any week day except Saturday shall be deemed to have been effected on the following day. Service effected after 2 in the afternoon on Saturday shall be deemed to have been effected on the following Monday.

7. No pleadings shall be amended or delivered in the long ⁴⁶⁰ Pleading in vacation.
vacation, except by consent or unless directed by the Court or a Judge.

8. The time of the long vacation shall not be reckoned in the ⁴⁶¹ Long vacation excluded in time for pleading.
computation of the times appointed or allowed by these Rules for filing, amending, or delivering any pleading, or in the times allowed for other purposes for which the same is not reckoned

by

by the practice of the Courts consolidated by the Act, or any or either of them, or for the like proceedings substituted by the Act, or these Rules; unless otherwise directed by a Court or a Judge.

462

Enlargement
or abridgment
of time.

9. A Court or a Judge shall have power to enlarge or abridge the time appointed by these Rules, or fixed by any order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case may require; and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed.

463

Costs of appli-
cation for ex-
tension of
time.

10. The costs of an application to extend the time for taking any proceeding shall, in the absence of an order by the Court or a Judge directing by whom they are to be paid, be in the discretion of the taxing master.

ORDER LIII.

AFFIDAVITS.

464

Form of affi-
davits.

1. Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. Every affidavit shall be written or printed. No costs shall be allowed for any affidavit or part of an affidavit substantially departing from this rule.

465

Description
and address of
deponent to be
stated.

2. Every affidavit shall state the description and true place of abode of the deponent, and shall be signed by him.

466

Affidavits
made by two
or more de-
ponents.

3. In every affidavit made by two or more deponents the names of the several persons making the affidavit shall be inserted in the jurat, except that if the affidavit of all the deponents is taken at one time by the same officer, it shall be sufficient to state that it was sworn by both (or all) of the "above-named" deponents.

467

Affidavit to
shew on whose
behalf it is
filed.

4. There shall be appended to or indorsed upon every affidavit a note shewing on whose behalf it is filed.

468

Alterations in
affidavits.

5. No affidavit having in the jurat or body thereof any interlineation, alteration, or erasure shall without leave of the Court or a Judge be read or made use of in any matter pending in Court unless the interlineation or alteration (other than by erasure) is authenticated by the initials of the officer taking the affidavit; nor in the case of an erasure, unless the words or figures appearing at the time of taking the affidavit to be written

written on the erasure are rewritten, and signed or initialed in the margin of the affidavit by the officer taking it.

6. Where an affidavit is sworn by any person who appears to the officer taking the affidavit to be illiterate, the officer shall certify in the jurat that the affidavit was read in his presence to the deponent, that the deponent seemed perfectly to understand it, and that the deponent made his or her signature in the presence of the officer. No such affidavit shall be used in evidence in the absence of this certificate, unless the Court or a Judge is otherwise satisfied that the affidavit was read over to and apparently perfectly understood by the deponent.

469

Affidavits by illiterate persons.

7. In cases in which by the present practice an original affidavit is allowed to be used, it shall before it is used be stamped with a proper filing stamp, and shall at the time when it is used, be delivered to and left with the proper officer in Court or in Chambers. An office copy of an affidavit may in all cases be used, the original affidavit having been previously filed in the proper office, and the copy duly authenticated with the seal of that office.

470

Stamps on affidavits.

Use of office copies.

ORDER LIV.

DIVISIONAL AND OTHER COURTS.

1. The following proceedings and matters shall be heard and determined before the Divisional Courts; but nothing herein contained shall be construed so as to take away or limit the power of a single Judge to hear and determine any such proceedings or matters in any case in which he has heretofore had power to do so, or so as to require any interlocutory proceeding therein, heretofore taken before a single Judge to be taken before a Divisional Court:

471

Proceedings to be taken before Divisional Courts.

Appeals from orders of a Judge in Chambers.

Proceedings directed by any Statute to be taken before the Court, and in which the decision of the Court is final.

Cases of Habeas Corpus, in which a Judge directs that a rule nisi for the writ, or the writ, be made returnable before a Divisional Court.

Other cases where all parties agree that the same be heard before a Divisional Court.

Applications for new trials in the said Divisions where the action has been tried with a jury.

2. Bills of exceptions and proceedings in error shall be abolished.

472

Bills of exceptions and error abolished.

ORDER

ORDER LV.

EFFECT OF NON-COMPLIANCE AND ERRORS.

473

Non-compliance with Rules.

1. Non-compliance with any of these Rules shall not render the proceedings in any action void unless the Court or a Judge shall so direct, but such proceedings may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with in such manner and upon such terms as the Court or Judge shall think fit.

474

Amendment of defects or errors.

2. The Court or a Judge may at any time, and on such terms as to costs or otherwise as to the Court or Judge may seem just, amend any defect or error in any proceedings; and all such amendments may be made as may be necessary for the advancement of justice, determining the real question or issue raised by or depending on the proceedings, and best calculated to secure the giving of judgment according to the very right and justice of the case.

ORDER LVI.

ACCOUNTANT'S OFFICE.

475

Suitors' Accounts in Superior Courts consolidated.

1. The Suitors' Accounts in the Queen's Bench, Common Pleas, and Chancery, shall be consolidated, and shall be in charge of an officer to be called the Accountant of the Supreme Court.

476

R. S. O. c. 50, s. 121, to apply to accounts.

2. Section 121 of the Common Law Procedure Act shall apply to the said accounts, and shall be read as if the words "Accountant of the Supreme Court" were substituted for the word "clerk" wherever the word "clerk" occurs in the said section.

477

Payment out of Court.

3. Money is to be paid out of Court upon the cheque of the Accountant, countersigned by any of the following officers, viz.: one of the Clerks of the Crown and Pleas or the Registrar.

478

Cheques to be initialed by Clerk.

4. Every cheque is to be initialed by the chief Clerk in the Accountant's office before the same is presented for the signature of the Accountant or other officer.

479

Registrar to act as Accountant.

5. The Registrar of the Court of Chancery shall act as, and shall be, Accountant of the Supreme Court until and unless some other person is appointed Accountant of the Supreme Court.

ORDER

ORDER LVII.

SITTINGS AND VACATIONS.

1. The sittings of the High Court of Justice shall be three in every year, viz., the Michaelmas sittings, the Hilary sittings, and the Easter sittings; 480
Sittings of
High Court.

(a) The Michaelmas sittings shall begin on the third Monday in November, and end on the Saturday of the second week thereafter; the Hilary sittings shall begin on the first Monday in February and end on the Saturday of the following week; the Easter sittings shall begin on the third Monday in May and end on the Saturday of the second week thereafter;

(b) In case it appears to the Judges of the said Court, or a majority of them, that the number of days so provided for holding any sittings is not required, or is insufficient, for the due despatch of the business to be transacted by the Court in such sittings, such Judges may from time to time, by rule or order, shorten the period for holding the sittings to such period, not less than two weeks, or increase the length of the same to any period, as the case may require;

(c) The preceding provisions of this Order are not to apply to the Chancery Division except when the Judges thereof shall be of opinion that the business of the said Division is such as to render the said provisions necessary or convenient for the due despatch of business, and shall give notice to that effect;

(d) Divisional Courts of the High Court are to sit at such further or other times as may be directed by the High Court or as may be necessary for the due despatch of business.

2. One or more of the Judges of the High Court shall be selected at the commencement of each Long Vacation, for the hearing in Toronto during vacation of all such applications as may require to be immediately or promptly heard. Such Judge or Judges shall act as vacation Judge or Judges for one year from appointment. In the absence of arrangement between the Judges, the vacation Judge or Judges shall be the Judge or Judges last appointed (whether as Judge or Judges of the said High Court or of any Court whose jurisdiction is by the Act vested in the said High Court) who have not already served as vacation Judges of any such Court; and if there shall not be any Judge or Judges for the time being of the said High Court who shall not have so served, then the vacation Judge or Judges shall be the Judge or Judges (if any) who has or have not so served and the senior Judge or Judges who has or have so served once only according to seniority of appointment whether in the said High Court or such other Court as aforesaid. 481
Vacation
Judges

3.

482
Jurisdiction of
vacation
Judges.

3. The vacation Judges may sit either separately, or together as a Divisional Court, as occasion shall require, and may hear and dispose of all actions, matters, and other business to which-ever Division the same may be assigned. No order made by a vacation Judge shall be reversed or varied except by a Divisional Court or the Court of Appeal, or the Judge who made the order. Any other Judge of the High Court may sit in vacation for any vacation Judge.

483
Power of va-
cation Judges
during inter-
vals between
sittings.

4. The vacation Judges of the High Court may dispose of all actions, matters, and other business of an urgent nature during any interval between the sittings of any Division of the High Court to which such business may be assigned, although such interval may not be called or known as a vacation.

ORDER LVIII.

EXCEPTIONS FROM THE RULES.

84
Certain mat-
ters not affect-
ed.

Nothing in these Rules shall be construed as intended to affect the practice or procedure in criminal proceedings, or proceedings on the Crown or Revenue side of the Queen's Bench or Common Pleas Divisions.

ORDER LIX.

FORMS.

485
Forms to be
used.

The forms contained in the Appendices hereto are to be used with such variations or modifications as circumstances may require.

ORDER LX.

COUNTY COURTS.

486
Sittings of
County Court.

1. The County Court terms are abolished. There shall be sittings of the said Court at and for the same periods as the said terms.

487
Time sittings
to commence.

2. The sittings of the County Courts now required to be held on the first Monday in April and October in each year, for disposing of cases without the intervention of a jury, shall after the passing of this Act commence on the first Tuesday instead of the first Monday in each of the said months.

3.

3. Subject to Rules of Court, the Judges of the County Court shall also have power to sit and act at any time for the transaction of any part of the business of such courts, or for the discharge of any duty which by any statute or otherwise is required to be discharged out of or during term. ⁴⁸⁸ Judges may sit at any time.

4. In all actions, suits or other proceedings brought in any County or Division Court in Ontario, in which the plaintiff fails to recover judgment by reason of such Court having no jurisdiction over the subject matter thereof, the said County Court, or the Judge presiding in the said Division Court, as the case may be, shall have jurisdiction over the costs of such action, suit or other proceeding, and may order by and to whom the same shall be paid, and the recovery of the costs so ordered to be paid may be enforced by the same remedies as the costs in actions, suits or proceedings within the proper competence of the said Courts respectively are recoverable. ⁴⁸⁹ Costs where action fails for want of jurisdiction.

5. Subject to the provisions of this Act, and to Rules of Court, the pleadings, practice and procedure for the time being of the High Court of Justice shall apply and extend to the County Courts, wherever the present pleadings, practice and procedure of the County Courts correspond with those of the Superior Courts of Law. ⁴⁹⁰ Procedure in County Courts.

ORDER LXI.

INTERPRETATION.

1. A "Judge" in the preceding Orders means a Judge of the Supreme Court, or a Judge having the authority for the time being of a Judge of the High Court, unless there is something in the context indicating a different meaning. ⁴⁹¹ "Judge" meaning of.

2. Any Rule of the several Orders in this schedule may be cited by the marginal number of the Rule, or by the number of the Order, and of the Rule as it stands in such Order. ⁴⁹² Citation of Rules.

ORDER LXII.

PENDING BUSINESS.

1. With respect to pending business in the Queen's Bench and Common Pleas Divisions, the procedure is to be as follows:—
 (1) Where no declaration has been delivered, the action shall be continued according to the ordinary course of the High Court of Justice, as if it had been commenced in that Court. (2) In all other cases the action shall be continued up to the close of the ⁴⁹³ In Queen's Bench and Common Pleas Divisions.

the pleadings according to the practice of the Court in which it was brought, and afterwards according to the provisions of the Act; subject, however, to an order, at the instance of either party, to proceed at any stage according to the provisions of the Act.

494
In Chancery
Division.

2. With respect to pending business in the Court of Chancery, subject to any special order which may be made in any cause, matter or proceeding pending at the commencement of the Act, the procedure is to be as follows:—All causes, matters, and proceedings, except causes in which neither notice of motion for a decree has been served, nor replication been filed, before the said time shall, so far as relates to the form and manner of procedure, be continued and concluded in the same manner as they would have been in the Court of Chancery;

(a) All such pending causes in which, up to the commencement of the Act, no notice of motion for a decree has been served or replication filed, shall be continued in the same manner as they would have been continued in the Court of Chancery up to the time at which such notice of motion or replication could have been served or filed, and shall from that period be continued according to the ordinary course of the High Court of Justice;

(b) Any party to a pending cause may apply in chambers that, for special reasons, a direction may be given for continuing such cause according to the ordinary course of the High Court of Justice.

APPENDICES TO THE FOREGOING RULES.

APPENDIX (A).

PART I.

FORMS OF WRITS OF SUMMONS, AND NOTICE IN LIEU OF SUMMONS.

No. 1.

General Form of Writ of Summons.

In the High Court of Justice.
—Division.

Between A.B. Plaintiff,
and
C.D. and E.F. Defendants.

VICTORIA, by the Grace of God, &c.

To C.D. in the county of and E.F. of

We command you, That within ten days after the service of this writ
on

on you, inclusive of the day of such service, you cause an appearance to be entered for you in an action at the suit of A.B.; and take notice that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence. Witness, the Honourable

President, &c.

Memorandum to be subscribed on the writ.

N.B.—This writ is to be served within 12 calendar months from the date thereof, or if renewed, within 12 calendar months from the date of such renewal, including the day of such date, and not afterwards.

The defendant [or defendants] may appear hereto by entering an appearance [or appearances] either personally or by solicitor at the [] office at

Indorsements to be made on the writ.

The plaintiff's claim is for, &c.

Where the writ is to be specially indorsed add:—The following are the particulars:—(*Giving them. See Part II. post.*)

This writ was issued by E.F., of [] solicitor for the said plaintiff, who resides at [], or, this writ was issued by the plaintiff in person who resides at [mention the city, town, or township, and also the name of the street and number of the house of the plaintiff's residence, if any, or in case of a township, the number of the lot and concession.]

Indorsement to be made on the writ after service thereof.

This writ was served by X.Y. on C.D. [the defendant or one of the defendants], on Monday, the [] day of [], 18 [].
(Signed) X.Y.

No. 2.

Writ for service out of Ontario or where notice in lieu of service is to be given out of Ontario.

In the High Court of Justice.
—Division.

Between A.B., Plaintiff,
and
C.D. and E.F. Defendants.

VICTORIA, by the grace of God, &c.

To C. D., of

We command you C. D., that within [here insert the number of days directed by Order II., or as the case may be] after the service, on you, of this writ and of the plaintiff's statement of claim delivered herewith, [or notice of this writ as the case may be], inclusive of the day of such service, you cause an appearance to be entered for you in an action at the suit of A.B., and your defence thereto, if any, to be delivered; and take notice that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

Witness, the Honourable

President, &c.

Memorandum and indorsements as in Form No. 1,

Indorsement to be made on the writ.

N.B.—This writ is to be used where the defendant or all the defendants or one or more defendant or defendants is or are out of Ontario. When the defendant to be served is not a British subject, and is not in British dominions notice of the writ, and not the writ itself, is to be served upon him.

Indorsement

Indorsement to be made on the writ after service thereof:

This notice was served by X. Y., on G. H., (the defendant or one of the defendants) on the day of 18 .
Indorsed the day of 18
(Signed)
(Address)

No. 3.

Notice of writ, in lieu of service, to be given out of Ontario.

In the High Court of Justice.

— Division.

Between A. B. Plaintiff,

and

C. D., E. F., and G. H., Defendants.

To G. H., of

Take notice that A. B., of has commenced an action against you, G. H., in the Division of Her Majesty's High Court of Justice in Ontario, by writ of that Court, dated the day of , A.D. 18 ; which writ is indorsed as follows [*copy in full the indorsements*], and you are required within [] days after the receipt of this notice, inclusive of the day of such receipt, to defend the said action, by causing an appearance to be entered for you in the said Court to the said action, and your defence thereto, if any, to be delivered; and in default of your so doing, the said A. B., may proceed therein, and judgment may be given, in your absence.

You may appear to the said writ by entering an appearance personally or by your solicitor at the [] office at

Dated, &c.

(Signed) A. B., of &c.

or

X. Y., of &c.

Solicitor for A. B.

N.B.—This notice is to be used when the person to be served is not a British subject, and is not in British dominions.

Indorsement to be made on the writ after service thereof:

This notice was served by X. Y., on G. H., (the defendant or one of the defendants) on the day of 18 .
Indorsed the day of 18
(Signed)
(Address)

PART II.

INDORSEMENTS ON WRITS OF SUMMONS.

No. 4.

SECTION I.

Money Claims where no Special Indorsement under Order III., Rule 4.

Goods sold.

The plaintiff's claim is \$ for the price of goods sold.

This Form shall suffice whether the claim be in respect of goods sold and delivered, or of goods bargained and sold.

Money lent.

The plaintiff's claim is \$ for money lent [and interest].

Several demands.

The plaintiff's claim is \$ whereof \$ is for the price of goods sold, and \$ for money lent, and \$ for interest.

Rent.

The plaintiff's claim is \$ for arrears of rent.

The

The plaintiff's claim is § <i>case may be</i>].	for arrears of salary as a clerk [<i>or as the</i> Salary, &c.	
The plaintiff's claim is §	for interest upon money lent.	Interest.
The plaintiff's claim is §	for a general average contribution.	General average.
The plaintiff's claim is §	for freight and demurrage.	Freight, &c.
The plaintiff's claim is §	for lighterage.	Tolls.
The plaintiff's claim is §	for market tolls and stallage.	Penalties.
The plaintiff's claim is §	for penalties under the Statute	Vic.
toria, chap. [. . .]		
The plaintiff's claim is § as a banker.	for money deposited with the defendant	Banker's balance.
The plaintiff's claim is § expended] as a solicitor.	for fees for work done [and § money	Fees, &c., as solicitors.
The plaintiff's claim is § <i>auctioneer, broker, &c.</i>]	for commission as [<i>state character as</i>	Commission.
The plaintiff's claim is §	for medical attendance.	Medical attendance, &c.
The plaintiff's claim is § policies of insurance.	for a return of premiums paid upon	Return of premium.
The plaintiff's claim is §	for the warehousing of goods.	Warehouse rent.
The plaintiff's claim is §	for the carriage of goods by railway.	Carriage of goods.
The plaintiff's claim is §	for the use and occupation of a house.	Use and occupation of house.
The plaintiff's claim is §	for the hire of [<i>furniture</i>].	Hire of goods.
The plaintiff's claim is §	for work done as surveyor.	Work done.
The plaintiff's claim is §	for board and lodging.	Board and lodging.
The plaintiff's claim is § X. Y.	for the board, lodging and tuition of	Schooling.
The plaintiff's claim is § solicitor [<i>or factor, or collector, or, &c.</i>] of the plaintiff.	for money received by the defendant as	Money received.
The plaintiff's claim is § colour of the office of	for fees received by the defendant under	Fees of office.
The plaintiff's claim is § the carriage of goods by railway.	for a return of money overcharged for	Money overpaid.
The plaintiff's claim is § defendant as	for a return of fees overcharged by the	
The plaintiff's claim is § the defendant as stakeholder.	for a return of money deposited with	Return of money by stakeholder.
The plaintiff's claim is § as stakeholder, and become payable to plaintiff.	for money entrusted to the defendant	Money won from stakeholder.
The plaintiff's claim is § defendant as agent to the plaintiff.	for a return of money entrusted to the	Money entrusted to agent.
The plaintiff's claim is § plaintiff by fraud.	for a return of money obtained from the	Money obtained by fraud.
The plaintiff's claim is § defendant by mistake.	for a return of money paid to the de-	Money paid by mistake.
The plaintiff's claim is § defendant for [<i>work to be done, left undone ; or a bill to be taken up, not taken up &c.</i>]	for a return of money paid to the de-	Money paid for consideration which has failed.
The plaintiff's claim is § upon shares to be allotted.	for a return of money paid as a deposit	
The plaintiff's claim is § surety.	for money paid for the defendant as his	Money paid by surety for defendant.
The plaintiff's claim is § defendant.	for money paid for rent due by the de-	Rent paid.

The

Money paid on accommodation bill.	The plaintiff's claim is \$	upon a bill of exchange accepted [or indorsed] for the defendant's accommodation.
Contribution by surety.	The plaintiff's claim is \$	for a contribution in respect of money paid by the plaintiff as surety.
By co-debtor.	The plaintiff's claim is \$	for a contribution in respect of a joint debt of the plaintiff and the defendant, paid by the plaintiff.
Money paid for calls.	The plaintiff's claim is \$	for money paid for calls upon shares, against which the defendant was bound to indemnify the plaintiff.
Money payable under award.	The plaintiff's claim is \$	for money payable under an award.
Life policy.	The plaintiff's claim is \$	upon a policy of insurance upon the life of X. Y., deceased.
Money bond.	The plaintiff's claim is \$	upon a bond to secure payment of \$1,000, and interest.
Foreign judgment.	The plaintiff's claim is \$	upon a judgment of the Court, in the Province of Quebec.
Bill of exchange, &c.	The plaintiff's claim is \$	upon a cheque drawn by the defendant.
	The plaintiff's claim is \$	upon a bill of exchange accepted [or drawn or indorsed] by the defendant.
	The plaintiff's claim is \$	upon a promissory note made [or indorsed] by the defendant.
	The plaintiff's claim is \$	against the defendant A.B. as acceptor, and against the defendant C.D. as drawer [or indorser] of a bill of exchange.
Surety.	The plaintiff's claim is \$	against the defendant as surety for the price of goods sold.
	The plaintiff's claim is \$	against the defendant A.B. as principal, and against the defendant C.D. as surety for the price of goods sold [or arrears of rent, or for money lent, or for money received by the defendant A.B., as traveller for the plaintiffs, or, &c.]
Del credere agent.	The plaintiff's claim is \$	against the defendant as a del credere agent for the price of goods sold [or as losses under a policy].
Calls.	The plaintiff's claim is \$	for calls upon shares.

No. 5.

SECTION II.

Indorsement for Costs, &c.

[Add to the above Forms] and \$ for costs; and if the amount claimed be paid to the plaintiff or his solicitor within 8 days [or if the writ is to be served out of Ontario, or notice in lieu of service allowed, insert the time limited for appearance and defence] from the service hereof, further proceedings will be stayed.

No. 6.

SECTION III.

Indorsements on Writs for Damages and other Claims.

Agent, &c

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller.

The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [and \$ for arrears of wages].

The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.

The

The plaintiff's claim is for damages for breach of duty as factor [or, &c.] of the plaintiff [and \$ for money received as factor, &c.]

The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of X. Y. to the defendant [or plaintiff].

The plaintiff's claim is for damages for non-compliance with the award of X. Y. Arbitration.

The plaintiff's claim is for damages for assault [and false imprisonment, and for malicious prosecution]. Assault, &c.

The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff C. D. By husband and wife.

The plaintiff's claim is for damages for assault by the defendant C. D.

The plaintiff's claim is for damages for injury by the defendant's negligence as solicitor of the plaintiff. Solicitor.

The plaintiff's claim is for damages for negligence in the custody of goods [and for wrongfully detaining the same]. Bailment.

The plaintiff's claim is for damages for negligence in the keeping of Pledge. goods pawned [and for wrongfully detaining the same].

The plaintiff's claim is for damages for negligence in the custody of Hire. furniture lent on hire [or a carriage lent], [and for wrongfully, &c.]

The plaintiff's claim is for damages for wrongfully neglecting [or Banker. refusing] to pay the plaintiff's cheque.

The plaintiff's claim is for damages for breach of a contract to accept Bill. the plaintiff's drafts.

The plaintiff's claim is upon a bond conditioned not to carry on the trade of a Bond.

The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway. Carrier.

The plaintiff's claim is for damages for refusing to carry the plaintiff by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of coals by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.

The plaintiff's claim is for damages for breach of charter-party of ship [Mary]. Charter-party.

The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture, &c. Damages for depriving of goods.

The plaintiff's claim is for damages for libel. Defamation.

The plaintiff's claim is for damages for slander.

The plaintiff's claim is in replevin for goods wrongfully distrained. Distress.

The plaintiff's claim is for damages for improperly distraining. Replevin.

[This form shall be sufficient whether the distress complained of be wrongful or excessive, or irregular, and whether the claim be for damages only, or for double value]. Wrongful distress.

The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing. Fishery.

The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a horse [or a business, or shares, or, &c.]. Fraud.

The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of A. B.

The plaintiff's claim is for damages for breach of a contract of guarantee for A. B. Guarantee.

The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain.

The plaintiff's claim is for a loss under a policy upon the ship "Royal Insurance. Charter," and freight or cargo [or for return of premiums].

[This Form shall be sufficient whether the loss claimed be total or partial].

The plaintiff's claim is for a loss under a policy of fire insurance upon house and furniture. Fire insurance.

The plaintiff's claim is for damages for breach of a contract to insure a house. Landlord and tenant.

The plaintiff's claim is for damages for breach of contract to keep a house in repair.

	The plaintiff's claim is for damages for breaches of covenants contained in a lease of a farm.
Medical man.	The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.
Mischievous animal.	The plaintiff's claim is for damages for injury by the defendant's dog.
Negligence.	The plaintiff's claim is for damages for injury to the plaintiff [<i>or, if by husband and wife, to the plaintiff C.D.</i>] by the negligent driving of the defendant or his servants. The plaintiff's claim is for damages for injury to the plaintiff while a passenger on the defendant's railway by the negligence of the defendant's servants. The plaintiff's claim is for damages for injury to the plaintiff at the defendant's railway station, from the defective condition of the station.
Lord Campbell's Act.	The plaintiff's claim is as executor of <i>A.B.</i> deceased, for damages for the death of the said <i>A.B.</i> , from injuries received while a passenger on the defendant's railway, by the negligence of the defendant's servants.
Promise of marriage.	The plaintiff's claim is for damages for breach of promise of marriage.
Seduction.	The plaintiff's claim is for damages for the seduction of the plaintiff's daughter.
Sale of goods.	The plaintiff's claim is for damages for breach of contract to accept and pay for goods. The plaintiff's claim is for damages for non-delivery [<i>or short delivery or defective quality, or other breach of contract of sale</i>] of cotton [<i>or, &c.</i>]
Sale of land.	The plaintiff's claim is for damages for breach of warranty of a horse. The plaintiff's claim is for damages for breach of a contract to sell [<i>or purchase</i>] land. The plaintiff's claim is for damages for breach of contract to let [<i>or take</i>] a house. The plaintiff's claim is for damages for breach of a contract to sell [<i>or purchase</i>] the lease, with goodwill, fixtures, and stock-in-trade of a public-house. The plaintiff's claim is for damages for breach of covenant for title [<i>or for quiet enjoyment, or, &c.</i>] in a conveyance of land.
Trespass to land.	The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [<i>or cutting his grass, or pulling down his timber, or pulling down his fences, or removing his gate, or using his road or path, or crossing his field, or depositing sand there, or carrying away gravel from thence, or carrying away stones from his river</i>].
Support.	The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [<i>or house or mine</i>].
Way.	The plaintiff's claim is for damages for wrongfully obstructing a way [<i>public highway or private way</i>].
Watercourse, &c.	The plaintiff's claim is for damages for wrongfully diverting [<i>or obstructing, or polluting, or diverting water from</i>] a watercourse. The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [<i>or into the plaintiff's mine</i>]. The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.
Pasture.	The plaintiff's claim is for damages for the infringement of the plaintiff's right of pasture. <i>[This form shall be sufficient whatever the nature of the right to pasture be.]</i>
Light.	The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house.
Patent.	The plaintiff's claim is for damages for the infringement of the plaintiff's patent.
Copyright.	The plaintiff's claim is for damages for the infringement of the plaintiff's copyright.
Trade mark.	The plaintiff's claim is for damages for wrongfully using [<i>or imitating</i>] the plaintiff's trade mark.

The

The plaintiff's claim is for damages for breach of a contract to build a Work.
ship [or to repair a house, &c.]

The plaintiff's claim is for damages for breach of a contract to employ
the plaintiff to build a ship, &c.

The plaintiff's claim is for damages to his house, trees, crops, &c., caused Nuisance.
by noxious vapours from the defendant's factory [or, &c.]

The plaintiff's claim is for damages from nuisance by noise from the
defendant's works [or, &c.]

The plaintiff's claim is for damages for loss of the plaintiff's goods in Innkeeper.
the defendant's inn.

The plaintiff's claim is for return of household furniture, or, &c., or Claim for
their value, and for damages for detaining the same. return of
goods;
damages.

The plaintiff's claim is to recover possession of a house, No. in Ejectment.
street, in the City of Ottawa; or of the N.E. $\frac{1}{4}$ of lot 2, in the 3rd conces-
sion of the Township of in the county of

The plaintiff's claim is to establish his title to [here describe property], To establish
and to recover the rents thereof. title and
recover rents.

[The two previous forms may be combined.]

The plaintiff's claim is for dower out of lot number (or de- Dower.
scribing the property otherwise with reasonable certainty). And take notice
that the plaintiff claims damages for the detention of her dower from the
day of

Add to indorsement if a mandamus is claimed

And for a mandamus:

Mandamus.

Add to indorsement if an injunction is claimed.

And for an injunction.

Injunction.

Add to Indorsement where Claim is to land, or to establish title, or
both:

And for mesne profits.

Mesne profits

And for an account of rents or arrears of rent.

Arrears of
rent.

And for breach of covenant for [repairs].

Breach of
covenant.

No. 7.

SECTION IV.

Money Claims—Special Indorsements under Order III. Rule 4.

1. The plaintiff's claim is for the price of goods sold. The following
are the particulars:—

1879—31st December.—

Balance of account for butcher's meat to this date . . . \$142

1880—1st January to 31st of March.—

Butcher's meat supplied 297

\$439

1880—1st February.—Paid 180

Balance due \$259

2. The plaintiff's claim is against the defendant A.B. as principal, and
against the defendant C.D. as surety, for the price of goods sold to A.B.
The following are the particulars:—

1881—2nd February. Guarantee by C.D. of the price of woollen goods
to be supplied to A.B.

2nd

2nd February—To goods	\$225
3rd March—To goods	151
17th March—To Goods	27
5th April—To Goods	65
	<hr/>
	\$468

3. The plaintiff's claim is against the defendant, as maker of a promissory note. The following are the particulars :—

Promissory note for \$1,000, dated 1st January 1879, made by defendant, payable 4 months after date.

Principal	\$1,000
Interest	

4. The plaintiff's claim is against the defendant *A.B.* as acceptor, and against the defendant *C.D.* as drawer, of a bill of exchange. The following are the particulars :—

Bill of exchange for \$2,000, dated 1st January, 1880, drawn by defendant *C.D.* upon and accepted by defendant *A.B.*, payable 3 months after date.

Principal	\$2,000
Interest	

5. The plaintiff's claim is for principal and interest due upon a bond. The following are the particulars :—

Bond dated 1st January, 1879. Condition for payment of \$500 on the 26th December, 1879.

Principal due	\$500
Interest	

6. The plaintiff's claim is for principal and interest due under a covenant. The following are the particulars :—

Deed dated covenant to pay \$3,000 and interest.

Principal due	\$300
Interest	

No. 8.

SECTION V.

*Indorsements of Character of Parties.***Executor.**

The plaintiff's claim is as executor [*or administrator*] of *C. D.*, deceased, for, &c.

The plaintiff's claim is against the defendant *A. B.*, as executor [*or, &c.*] of *C. D.*, deceased, for, &c.

The plaintiff's claim is against the defendant *A.B.*, as executor of *X. Y.*, deceased, and against the defendant *C.D.*, in his personal capacity, for, &c.

Against executrix.

The claim of the plaintiff is against the defendant as executrix of *C. D.*, deceased, for

Assignee in insolvency.

The plaintiff's claim is as assignee in insolvency of *A. B.*, for

The plaintiff's claim is against the defendant as assignee in insolvency of *A.B.*, for

Trustees.

The plaintiff's claim is as [*or the plaintiff's claim is against the defendant as*] trustee under the will of *A. B.* [*or under the settlement upon the marriage of *A. B.* and *X. Y.*, his wife*].

Heir and devisee.

The plaintiff's claim is against the defendant as heir-at-law of *A. B.*, deceased.

The plaintiff's claim is against the defendant *C.D.*, as heir-at-law, and against the defendant *E. F.*, as devisee of lands under the will of *A. B.*

Qui tam action.

The plaintiff's claim is as well for the Queen as for himself, for

No. 9.

No 9.

SECTION VI.

Indorsements in Matters which formerly belonged to the exclusive jurisdiction of equity.

(a) *Creditor to administer Estate.*

The plaintiff's claim is as a creditor of X. Y., of deceased, to have the [real and] personal estate of the said X. Y., administered. The defendant C. D. is sued as the administrator of the said X. Y. [and the defendants E. F. and G. H. as his co-heirs-at-law].

(b) *Legatee to administer Estate.*

The plaintiff's claim is as a legatee under the will dated the _____ day of _____ 18____, of X. Y. deceased, to have the [real and] personal estate of the said X. Y. administered. The defendant C. D. is sued as the executor of the said X. Y. [and the defendants E. F. and G. H. as his devisees].

(c) *Partnership account.*

The plaintiff's claim is to have an account taken of the partnership dealings between the plaintiff and defendant [under articles of partnership dated the _____ day of _____], and to have the affairs of the partnership wound up.

(d) *By Mortgagee for sale and for immediate payment and possession.*

The plaintiff's claim is on a mortgage dated the _____ day of _____ made between _____ [or by deposit of title deeds], and that the mortgage may be enforced by sale, and payment to the plaintiff by the defendant personally of any balance. (*If order for immediate payment is wanted add*), And take notice further that the plaintiff claims to be entitled forthwith to execution against the goods and lands of you (*naming the defendant against whom this order is claimed*) to recover payment of the amount due by you.

(*If order for immediate possession is wanted add*), And take notice further, that the plaintiff claims to be entitled to an order for the immediate delivery of the mortgaged premises to him.

(e) *By Mortgagee for foreclosure and for immediate payment and possession.*

The plaintiff's claim is on a mortgage dated the _____ day of _____, made between _____ (*or by deposit of title deeds*), and that the mortgage may be enforced by foreclosure.

(*If order for immediate payment is wanted add*), And take notice further that the plaintiff claims to be entitled forthwith to execution against the goods and lands of you (*naming the defendant against whom this order is claimed*) to recover payment of the amount due by you.

(*If order for immediate possession is wanted add*), And take notice further that the plaintiff claims to be entitled to the immediate possession of the mortgaged premises.

(*At the end of the indorsement add*), If you desire a sale of the mortgaged premises instead of a foreclosure, and do not intend to defend the action, you

you must within the time allowed for appearance, file in the office within named, a notice in writing, signed by yourself or your solicitor, to the following effect:—"I desire a sale of the mortgaged premises in the plaintiff's writ of summons mentioned, or a competent part thereof, instead of a foreclosure," and you must deposit the sum of \$80 to meet the expenses of such sale.

(f) *By Mortgagor for Redemption.*

The plaintiff's claim is to have an account taken of what, if anything, is due on a mortgage dated _____ and made between [parties], and to redeem the property comprised therein.

(g) *Raising Portions.*

The plaintiff's claim is that the sum of \$ _____, which by an indenture of settlement dated _____, was provided for the portions of the younger children of _____ may be raised.

(h) *Execution of Trusts.*

The plaintiff's claim is to have the trusts of an indenture dated _____ and made between _____, carried into execution.

(i) *Cancellation or Rectification.*

The plaintiff's claim is to have a deed dated _____ and made between [parties], set aside or rectified,

(j) *Specific Performance.*

The plaintiff's claim is for specific performance of an agreement dated the _____ day of _____, for the sale by the plaintiff to the defendant of certain [freehold] hereditaments at _____.

(k) *Alimony.*

The plaintiff's claim is for alimony; and the plaintiff demands as interim alimony until the trial of the action the monthly (or weekly) sum of \$ _____ to be paid to her on the _____ day of each month (or week) at _____ and the interim costs to which she is entitled by the practice in that behalf.

NOTE.—Where the plaintiff desires to register a certificate of *lis pendens* the indorsement on the writ of summons may contain such short description of the property as may be necessary or proper for that purpose.

APPENDIX (B).

NOTICES, &c.

No. 10.

Notice of Motion to Court.

In the High Court of Justice.

—Division.

Between

Plaintiff,

and

Defendant.

Take notice, that the Court will be moved on behalf of on day
the day of 18 at o'clock in the forenoon, or so soon
thereafter as counsel can be heard, that (*state the object of the intended
application*).

Dated the day of 18 .

(Signed)
Solicitor for the

To

No. 11.

Notice of Motion in Chambers.

[Title, &c.]

Take notice that a motion will be made on behalf of
before the Master in Chambers (*or as the case may be*), at Osgoode Hall, in
the City of Toronto, on day the day of ,
18 , at o'clock in the noon, or so soon thereafter as
the motion can be heard, for an order for time to, &c., For time.

or, that be at liberty to sign final judgment in this action for the For final judg-
amount indorsed on the writ with interest, if any, and costs ; ment under
Order 10.

or, that the Plaintiff be at liberty to amend the writ of summons in this To amend
action by writ.

or, that the do furnish the said with a For particu-
statement in writing, verified by affidavit, setting forth the names of the lars (Partner-
persons constituting the members or co-partners of their firm, pursuant ship).
to the Rules of the Supreme Court, Order 12, Rule 12.

or, for an account in writing of the particulars of the Plaintiff's claim in For particu-
this action (with dates and items, *or as the case may be*), and that unless lars (gen-
such particulars be delivered in 4 days, all further proceedings be stayed erally).
until the delivery thereof ;

or, for an account in writing of the particulars of the injuries and expenses For particu-
mentioned in the Statement of Claim, together with the time and place of lars (accident).
the accident, and the particular acts of negligence complained of, and
that unless such particulars be delivered within days, all further
proceedings be stayed until the delivery thereof ;

or, that the order of in this action, dated the day of To discharge
disclosed in the affidavit of , 18 , be (discharged, or varied by, &c.), on the grounds or vary order.
application ; , filed in support of this

or, that this action be dismissed with costs to be taxed and paid to the To dismiss
Defendant by the Plaintiff for want of prosecution, the Plaintiff not action.
having, &c. ;

or,

For discovery of documents *or, that the documents are or have been in the matters in question in this action ;* answer within _____ days, stating what possession or power relating to

To inspect documents. *or, that the _____ be at liberty to inspect, and take copies of, _____, and that in the meantime all further proceedings be stayed ;*

To examine witness before trial. *or, that _____ a witness on behalf of the _____ be examined forthwith before _____ upon the usual terms ;*

For Commission to examine witnesses. *or, that the _____ be at liberty to issue a commission for the examination of witnesses on _____ behalf at _____, and that the trial of this action be stayed until the return of such commission upon the usual terms ;*

To refer under section 47 of the Act. *or, that the following question arising in this action, namely :— _____ be referred for inquiry and report to _____ under section 47 of the Judicature Act ;*

To refer under section 48 of the Act. *or, that the _____ in this action be tried by _____ under section 48 of the Judicature Act ;*

For compulsory reference to Master. *or, that (this action or the matters of account in this action or the following questions in this action being matters of account, namely, &c.) be referred to the certificate of one of the Masters of the Supreme Court of Judicature to award or certify ;*

For examination of judgment debtor as to means. *or, that the above-named judgment debtor be orally examined as to whether any and what debts are owing to him, and do attend for that purpose before the Master in Chambers (or as the case may be) at such time and place as he may appoint, and that the said judgment debtor produce his books, &c., before the said Master at the time of the examination ;*

For trial of action in County Court. *or, that this action be tried before the County Court of _____ holden on _____*

For interpleader order (by sheriff). *or, that the plaintiff and the claimant appear and state the nature of their respective claims to the goods and chattels seized by the above-named sheriff under the writ of *feri facias* issued in this action and maintain or relinquish the same and abide by such order as may be made herein, and that in the meantime all further proceedings be stayed.*

No. 12.

Notice of application for Administration Order or respecting the guardianship of an infant.

In the High Court,
_____ Division.

Between A.B., plaintiff,
and
C.D., defendant.

To Mr. C.D.

Take notice that an application will be made to _____, in Toronto, (or to _____ at his office in the city (or town) of, &c., as the case may be), on the _____ day of _____ at the hour of o'clock in the forenoon, (or if opposed, then to a Judge in Chambers so soon thereafter as a Judge shall be sitting in Chambers, for an order for the

the administration of the estate, real and personal, of by the
Court, or for an order appointing guardian of an
infant); and upon such application will be read the affidavits of
this day filed.

Dated, &c.

X. Y., Solicitor for

No. 13.

Notice of Entry of Appearance.

In the High Court of Justice.

— Division.

Between

Plaintiff,

and

Defendant.

Take notice, that have this day entered an appearance at for
the defendant to the writ of summons in this action.

The said defendant require [or do not require] delivery of a state-
ment of claim.

Dated the day of 18 .

(Signed)

Solicitor for the defendant.

To

No. 14.

Notice limiting defence.

In the High Court of Justice.

— Division.

Between A.B., plaintiff,

and

C.D., and E.F., defendants.

The defendant, C.D., limits his defence to part only of the property
mentioned in the writ in this action, that is to say, to the north-west
quarter of the lot.

Yours, &c.,

G. H.,

Solicitor for the said defendant C.D.

To

No. 15.

Notice disputing amount.

In the High Court of Justice.

— Division.

Between

Plaintiff,

and

Defendant.

Take notice, that the defendant disputes the amount claimed by the
plaintiff (or the defendant insists that the amount due to the plaintiff is
\$ only; or the defendant insists that the amount due to the plaintiff is
is \$ for principal and \$ for interest, since the day of
&c., and no more, as the case may be.)

(Signed)

Solicitor for the defendant.

To

No. 16.

No. 16.

Notice in lieu of Statement of Claim.

In the High Court of Justice.

— Division.

Between *A.B.*, plaintiff,
and
C.D., defendant.

The particulars of the plaintiff's claim herein, and of the relief and remedy to which he claims to be entitled, appear by the indorsement upon the writ of summons.

Dated, &c.

X. Y.,
Solicitor for Plaintiff.

No. 17.

Confession of Defence.

In the High Court.

— Division.

Between *A.B.*, plaintiff,
and
C. D., defendant.

The plaintiff confesses the defence stated in the paragraph of the defendant's statement of defence [or, of the defendant's further statement of defence].

Dated, &c.

X. Y.,
Solicitor for Plaintiff.

No. 18.

Notice by Defendant to Third Party.

Notice filed day of

In the High Court,
— Division.

Between *A. B.*, plaintiff,
and
C. D., defendant.

To Mr. *X. Y.*

Take notice that this action has been brought by the plaintiff against the defendant [as surety for *M. N.*, upon a bond conditioned for payment of \$10,000 and interest to the plaintiff.

The defendant claims to be entitled to contribution from you to the extent of one-half of any sum which the plaintiff may recover against him, on the ground that you are (his co-surety under the said bond, or, also surety for the said *M. N.*, in respect of the said matter, under another bond made by you in favour of the said plaintiff, dated the day of , A.D.).

Or [as acceptor of a bill of exchange for \$2,500, dated the day of , A. D. , drawn by you upon and accepted by the defendant and payable 3 months after date.

The defendant claims to be indemnified by you against liability under the said bill, on the ground that it was accepted for your accommodation.]

Or [to recover damages for a breach of a contract for the sale and delivery to the plaintiff of 1000 tons of coal.

The defendant claims to be indemnified by you against liability in respect of the said contract, or any breach thereof, on the ground that it was made by him on your behalf and as your agent.]

And

And take notice that, if you wish to dispute the plaintiff's claim in this action as against the defendant *C.D.*, you must cause an appearance to be entered for you within 8 days after service of this notice.

In default of your so appearing, you will not be entitled in any future proceeding between the defendant *C.D.* and yourself to dispute the validity of the judgment in this action whether obtained by consent or otherwise.

Dated, &c.

(Signed) *E. T.*

Or

X. Y.,

Solicitor for the defendant,
E. T.

Appearance to be entered at

No. 19.

*Indorsement on copy Defence and Counter-claim to be served on
Third Party.*

"To the within named *X. Y.*

Take notice that if you do not appear to the within counter-claim of the within-named *C. D.*, within 8 days from the service of this defence and counter-claim upon you, you will be liable to have judgment given against you in your absence.

Appearances are to be entered at

No. 20.

Indorsement on Order adding or changing parties under Order 44.

Take notice, that if you desire to discharge this order you must apply to the Court for that purpose within 12 days after the service hereof upon you. The original statement of claim in this cause is filed in the office of the at
(and if the service is after a judgment directing a reference to a Master or other officer, add) and the reference under the judgment in this matter is being prosecuted in the office of the at

No. 21.

Notice of payment into Court.

In the High Court of Justice.

Division.

A. B. v. C. D.

Take notice that the defendant has paid into Court \$ and says that that sum is enough to satisfy the plaintiff's claim [or the plaintiff's claim. for, &c.]

Dated, &c.

To Mr. *X. Y.*,
the Plaintiff's Solicitor.

Z.,

Defendant's Solicitor.

No. 22.

No. 22.

Acceptance of sum paid into Court.

In the High Court of Justice,
 _____ Division.

A. B. v. C. D.

Take notice that the plaintiff accepts the sum of \$ _____ paid by you
 into Court in satisfaction of the claim in respect of which it is paid in.

Dated, &c.

X. Y.,
 Plaintiff's Solicitor.

To Z.,
 Defendant's Solicitor:

No. 23.

Notice to produce Documents.

In the High Court of Justice,
 _____ Division.

A. B. v. C. D.

Take notice that the [plaintiff or defendant], requires you to produce
 for his inspection the following documents referred to in your [statement
 of claim, or defence, or affidavit dated the _____ day of
 A.D. _____].

Dated, &c.

[Describe documents required.]

X. Y.,
 Solicitor to the

To Z.,
 Solicitor for

No. 24.

Notice to Produce (General Form).

In the High Court of Justice,
 _____ Division.

Between

Plaintiff,

and

Defendant.

Take notice, that you are hereby required to produce and shew to the
 Court on the trial of this action all books, papers, letters, copies of letters,
 and other writings and documents in your custody, possession, or power,
 containing any entry, memorandum, or minute relating to the matters in
 question in this action, and particularly

Dated, &c.

To the above-named

h Solicitor or agent

} Solicitor for the above-named

No. 25.

No. 25.

Notice to inspect Documents.

In the High Court of Justice.

 Division.*A. B. v. C. D.*

Take notice that you can inspect the documents mentioned in your notice of the day of A.D. [except the deed numbered in that notice] at my office on day next the instant, between the hours of 12 and 4 o'clock.

Or, that the [plaintiff or defendant] objects to giving you inspection of the documents mentioned in your notice of the day of A.D. on the ground that [state the ground] :—

Dated, &c.

X. Y.,

Solicitor for

No. 26.

Notice to admit Documents.

In the High Court of Justice.

 Division.*A. B. v. C. D.*

Take notice that the plaintiff [or defendant] in this cause proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the defendant [or plaintiff], his solicitor or agent at , on , between the hours of ; and the defendant [or plaintiff] is hereby required, within 4 days from the said day, to admit that such of the said documents as are specified to be originals were respectively written, signed, or executed, as they purport respectively to have been; that such as are specified as copies are true copies, and such documents as are stated to have been served, sent, or delivered, were so served, sent, or delivered respectively; saving all just exceptions to the admissibility of all such documents as evidence in this cause.

X. Y.,

Solicitor for

Dated, &c.,

To *E. F.*, solicitor [or agent] for defendant [or plaintiff].*G. H.*, solicitor [or agent] for plaintiff [or defendant].

[Here describe the documents, the manner of doing which may be as follows:]

ORIGINALS.

Description of Documents.	Dates.
Deed of covenant between <i>A. B.</i> and <i>C. D.</i> first part, and <i>E. F.</i> second part	January 1, 1878.
Indenture of lease from <i>A. B.</i> to <i>C. D.</i>	February 1, 1878.
Indenture of release between <i>A. B.</i> , <i>C. D.</i> , first part, &c.	February 2, 1878.
Letter—defendant to plaintiff	March 1, 1878.
Policy of Insurance on goods by ship " <i>Isabella</i> ," on voyage from Toronto to Kingston	July 3, 1877.
Memorandum of agreement between <i>C. D.</i> , captain of said ship, and <i>E. F.</i>	August 1, 1878.
Bill of exchange for \$500 at 3 months, drawn by <i>A. B.</i> on and accepted by <i>C. D.</i> , indorsed by <i>E. F.</i> and <i>G. H.</i>	May 1, 1879.

COPIES.

COPIES.

Description of Documents.	Dates.	Original or duplicate served, sent, or delivered, when, how and by whom.
Register of baptism of <i>A.B.</i> in the parish of <i>X</i>	January 1, 1848.	Sent by General Post February 2, 1848.
Letter—plaintiff to defendant.	February 1, 1848.	
Notice to produce papers	March 1, 1878.	Served March 2, 1878 on defendant's attorney by <i>E. F.</i> , of —
Record of a Judgment of the Court of Queen's Bench in an action, <i>J.S.</i> and <i>J.N.</i>	Trinity Term, 10th Vic.	

No. 27.

Notice of Trial.

In the High Court of Justice.
 ——— Division.

A.B. v. C.D.

Take notice of trial of this action [*or the issues in this action ordered to be tried*] at ——— for the ——— day of ——— next
X. Y., plaintiff's solicitor [*or as the case may be*].

Dated, &c.

To *Z.*, defendant's solicitor [*or as the case may be*].

No. 28.

Notice of Entry of Demurrer for Argument.

In the High Court of Justice.
 ——— Division.

Between

and

Plaintiff,

Defendant.

Take notice, that ——— have this day entered for argument the demurrer
 of the ——— to the ——— in this action.

Dated the ——— day of ——— 18 .

(Signed)

of

Solicitor for the

To

No. 29.

No. 29.*Notice of Discontinuance.*

In the High Court of Justice.

____ Division.

Between

and

Plaintiff,

Defendant.

Take notice, that the plaintiff hereby wholly discontinues this action,
(or withdraws so much of his claim in this action as relates to, &c.

(If not against all the defendants add), "As against the defendant," &c.

Dated the ____ day of ____ 18 .

(Signed)

of

Solicitor for the plaintiff.

No. 30.*Notice of Cross-examination of Deponents at Trial on Affidavits.*

In the High Court of Justice.

____ Division.

Between

and

Plaintiff,

Defendant.

Take notice, that the ____ intend at the trial of this action to cross-examine the several deponents named and described in the schedule hereto on their affidavits therein specified.

And also take notice that you are hereby required to produce the said deponents for such cross-examination before the Court aforesaid.

Dated the ____ day of ____ 18 .

Solicitor for the

To

THE SCHEDULE above referred to.

Name of Deponent.	Address and Description.	Date when affidavit filed.

No. 31.*Notice of Renewal of Writ of Execution.*

In the High Court of Justice.

____ Division.

Between

and

Plaintiff,

Defendant.

Take notice, that the writ of ____ issued in this action directed to the sheriff of ____ and bearing date the ____ day of ____ 18 , has been renewed for one year from the ____ day of ____ 18 .

Dated the ____ day of ____ 18 .

(Signed)

Solicitor for the

To the sheriff of

APPENDIX

APPENDIX (C).

AFFIDAVITS.

No. 32.

Affidavit of Service of Summons.

In the High Court of Justice.

— Division.

Between

Plaintiff,

and

Defendant.

I, of solicitor for the above-named make oath and say
as follows :—

I did on the day of 18, before the hour of in the
noon, serve the above-named in this action with a true
copy of the summons hereto annexed marked A, by leaving it at the
of the said situate, &c., with there

Sworn at this day of 18.

Before me, &c.

This affidavit is filed on behalf of the

No. 33.

Affidavit by Landlord.

In the High Court,

— Division.

Between A.B., Plaintiff,

and

C.D., Defendant.

I, of make oath and say
as follows :—

I am in possession of the land sought to be recovered in this action by
myself (or by the said C.D., my tenant, (as the case may be).

Sworn at this day of

Before me, etc.

No. 34.

Affidavit as to Documents.

In the High Court of Justice.

— Division.

Between A.B., Plaintiff,

and

C.D., Defendant.

I, the above-named defendant C.D., make oath and say as follows :—

1. I have in my possession or power the documents relating to the
matters in question in this action set forth in the first and second parts of
the first schedule hereto.

2. I object to produce the said documents set forth in the second part of the said first schedule hereto.

3. That [*here state upon what grounds the objection is made, and verify the facts as far as may be*].

4. I have had, but have not now, in my possession or power the documents relating to the matters in question in this suit set forth in the second schedule hereto.

5. The last-mentioned documents were last in my possession or power on [*state when*].

6. That [*here state what has become of the last-mentioned documents, and in whose possession they now are*].

7. According to the best of my knowledge, information, and belief, I have not now, and never had in my possession, custody, or power, or in the possession, custody, or power of my solicitors or agents, solicitor or agent, or in the possession, custody, or power of any other persons or person on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper, or writing, or any copy of or extract from any such document, or any other document whatsoever, relating to the matters in question in this action or any of them, or wherein any entry has been made relative to such matters, or any of them other than and except the documents set forth in the said first and second schedules hereto, and the pleadings and other proceedings in the action.

No. 35.

Affidavit on Production when made by an officer of a Corporation.

In the High Court.
— Division.

Between A.B., Plaintiff,
and
C.D., Defendant.

I, of , make oath and say as follows:—

1. I am the (*here state the name of the office held by the deponent in the service of the Company on whose behalf he makes the affidavit*), and as such, have knowledge of all documents which are, or have been, in the custody or possession of the said (Company), relating to the matters in question in this action.

2. I am cognizant of the matters in question in this action.

3. The said defendants have in their possession or power, the documents relating to the matters in question in this action, set forth in the first and second parts of the first schedule hereto.

4. The said defendants object to produce the said documents set forth in the second part of the said first schedule hereto.

5. That (*here state on what grounds the objection is made, and verify the facts as far as may be*).

6. The said defendants have had, but have not now, in their possession or power, the documents relating to the matters in question in this action, set forth in the second schedule hereto.

7. The last mentioned documents were last in the possession or power of the said defendants on (*state when*).

8. That (*here state what has become of the last mentioned documents, and in whose possession they now are*).

9. According to the best of my knowledge, information, and belief, the said defendants have not now, and never had, in their possession, custody, or power, or in the possession, custody, or power of myself, or of any of its solicitors or agents, or of any person or persons whomsoever, on its behalf any (*proceed as in last form*).

No. 36.

Affidavit in support of Garnishee Order.

In the High Court of Justice.

— Division.

Between

and

Judgment Creditor,

Judgment Debtor.

I, of the above-named judgment creditor [or solicitor for the above-named judgment creditor] make oath and say as follows:—

1. By a judgment of the Court given in this action, and dated the day of 18, it was adjudged that I [or the above-named judgment creditor] should recover against the above-named judgment debtor the sum of \$, and costs to be taxed, and the said costs were by a taxing officer's certificate dated the day of 18, allowed at \$

2. The said still remains unsatisfied to the extent of and interest amounting to \$

3. (Name, address and description of garnishee) is indebted to the judgment debtor in the sum of \$ or thereabouts.

4. The said (insert name of garnishee) is within the jurisdiction of this Court.

Sworn at the day of 18.

Before me

This affidavit is filed on behalf of the

No. 37.

Affidavit on Interpleader.

In the High Court of Justice.

— Division.

Between

and

Plaintiff,

Defendant.

I, of the defendant in the above action, make oath and say as follows:—

1. The writ of summons herein was issued on the day of 18, and was served on me on the day of 18. I have not yet delivered a statement of defence herein.

2. The action is brought to recover. The said (is or are) in my possession, but I claim no interest therein.

3. The right to the said subject-matter of this action has been and is claimed (if claim in writing make the writing an exhibit) by one who (state expectation of suit or that he has already sued).

4. I do not in any manner collude with the said or with the above-named plaintiff, but I am ready to bring into Court or to pay or dispose of the said in such manner as the Court may order or direct.

Sworn at the day of 18.

Before me

This affidavit is filed on behalf of the

APPENDIX (D).

PLEADINGS.

No. 38.

In the High Court of Justice,
 ——— Division

Account
 stated.

Writ issued 3rd September 18 .

A. B., Plaintiff,
 and
 E. F., Defendant.

Statement of Claim.

1. Between the 1st of January and the 28th of February, 1879, the plaintiff supplied to the defendant various articles of drapery ; and payments on account were from time to time made by the defendant. Claim.

2. On the 28th of February, 1879, a balance remained due to the plaintiff of \$325, and an account was on that day sent by the plaintiff to the defendant shewing that balance.

3. On the 1st of March following, defendant paid the plaintiff by cheque \$32 on account of the same. The residue of the said balance, amounting to \$293, has never been paid.

The plaintiff claims \$

The plaintiff proposes that this action should be tried at Whitby.

Delivered the
 X. Y., of

day of
 Plaintiff's Solicitor.

18 by

No. 39.

In the High Court of Justice,
 ——— Division.

Administra-
 tion of an
 Intestate's
 Estate.

Writ issued 22nd December, 18 .
 In the matter of the estate of A. B. deceased.

Between E. F., Plaintiff,
 and
 G. H., Defendant.

Statement of Claim.

1. A. B., of K., in the County of L., died on the 1st July, 1880, in- Claim.
 testate. The defendant, G. H., is the administrator of A. B.

2. A. B. died entitled to lands in the said county for an estate of fee simple, and also to some other real estate and to personal estate. The defendant has entered into possession of the real estate of A. B., and received the rents thereof.

3. A. B. was never married ; he had one brother only, who pre-deceased him without having been married, and two sisters only, both of whom also pre-deceased him, namely M. N. and P. Q. The plaintiff is the only child of M. N., and the defendant is the only child of P. Q.

The

The plaintiff claims—

1. To have the real and personal estate of *A. B.* administered in this Court, and for that purpose to have all proper directions given and accounts taken.
 2. To have a receiver appointed of the rents of his real estate.
 3. Such further or other relief as the nature of the case may require.
- The plaintiff proposes that this action should be tried at London.

Delivered the _____ day of 18 by
X. Y., of Plaintiff's Solicitor.

No. 40.

In the High Court of Justice,
 Division.

In the matter of the estate of *A. B.*, deceased.

Between *E. F.*, Plaintiff,
 and

G. H., Defendant.

Statement of Defence.

Defence.

1. The plaintiff is an illegitimate child of *M. N.* She was never married. The defendant admits the other allegations contained in the 1st and 3rd paragraphs of the plaintiff's statement of claim.
2. The intestate was not entitled to any real estate at his death.
3. The personal estate of *A. B.* was not sufficient for the payment of his debts, and has all been applied in payment of his funeral and testamentary expenses, and part of his debts.

Delivered the _____ day of 18 by
X. Y., of Defendant's Solicitor.

No. 41.

In the High Court of Justice,
 Division.

Writ issued 22nd December, 18 .

In the matter of the estate of *A. B.* deceased.

Between *E. F.*, Plaintiff,
 and

G. H., Defendant.

Statement of Claim.

Administra-
 tion of a Tes-
 tator's Estate,

Claim.

1. *A. B.*, of *K.*, in the county of *L.*, duly made his last will, dated the 1st day of March, 1873, whereby he appointed the defendant and *M. N.* (who died in the testator's lifetime), executors thereof, and devised and bequeathed his real and personal estate to and to the use of his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain 21, or a daughter who should attain that age, or marry, upon trust as to his real estate for the person who would be the testator's heir at-law, and as to his personal estate for the persons who would be the testator's next of kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid.

2. The testator died on the 1st day of July, 1880, and his will was proved by the defendant, on the 4th of October, 1880. The plaintiff has not been married.

3. The testator was at his death entitled to real and personal estate; the defendant entered into the receipt of the rents of the real estate and got in the personal estate; he has sold some part of the estate.

The

The plaintiff claims—

1. To have the real and personal estate of A. B. administered in this Court, and for that purpose to have all proper directions given and accounts taken.
 2. Such further or other relief as the nature of the case may require.
- The plaintiff proposes that this action should be tried at Napanee.

Delivered the _____ day of _____ 18 ____ by
X. Y., of _____ Plaintiff's Solicitor.

No. 42.

**In the High Court of Justice,
— Division.**

In the matter of the estate of A. B. deceased.

Between *E. F.*, Plaintiff,
and
G. H., Defendant.

Statement of Defence.

1. A. B.'s will contained a charge of debts; he died insolvent; he was Defence. entitled at his death to some real estate which the defendant sold, and which produced the net sum of \$22,500, and the testator had some personal estate which the defendant got in and which produced the net sum of \$5,400.
2. The defendant applied the whole of the said sums and the sum of \$84 which the defendant received from rents of the real estate, in the payment of the funeral and testamentary expenses and debts of the testator.
3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the 10th of January, 1880, and offered the plaintiff free access to the vouchers, to verify such accounts, but he declined to avail himself of the defendant's offer.
4. The defendant admits the allegations in the 1st and 2nd paragraphs of the plaintiff's statement of claim.
5. The defendant submits that the plaintiff ought to pay the costs of this action.

Delivered the _____ day of _____ 18 ____ by
X. Y., of _____ Defendant's Solicitor.

No. 43.

Action against Del credere Agents.

**In the High Court of Justice,
— Division.**

Agent.

Writ issued 23rd August, 18

**Between A. B. and Company, Plaintiffs,
and
E. F. and Company, Defendants.**

Statement of Claim.

1. The plaintiffs are manufacturers of artificial manures, carrying on Claim. business at _____, in the county of _____.

2. The defendants are commission agents, carrying on business in Toronto.

8. In the early part of the year , the plaintiffs commenced, and down to the 18 , continued to consign to the defendants, as their agents, large quantities of their manures for sale, and the defendants sold the same and received the price thereof and accounted to the plaintiffs therefor.

4. No express agreement has ever been entered into between the plaintiffs and the defendants with respect to the terms of the defendants' employment as agents. The defendants have always charged the plaintiffs a commission at per cent. on all sales effected by them, which is the rate of commission ordinarily charged by all del credere agents in the said trade. And the defendants, in fact, always accounted to the plaintiffs for the price, whether they received the same from the purchasers or not.

5. The plaintiffs contend that the defendants are liable to them as del credere agents, but if not so liable are under the circumstances hereinafter mentioned liable as ordinary agents.

6. On the , the plaintiffs consigned to the defendants for sale a large quantity of goods, including tons of

7. On or about the , the defendants sold tons of part of such goods to one G. H. for \$, at 3 months' credit, and delivered the same to him.

8. G. H. was not, at that time, in good credit and was in insolvent circumstances, and the defendants might, by ordinary care and diligence, have ascertained the fact.

9. G. H. did not pay for the said goods, but before the expiration of the said 8 months for which credit had been given, the estate of the said G. H. was placed in liquidation under the insolvency Acts then in force; and the plaintiffs have never received the said sum of \$ or any part thereof.

The plaintiffs claim:

1. Damages to the amount of \$

2. Such further or other relief as the nature of the case may require.

The plaintiffs propose that this action should be tried at Hamilton.

Delivered the day of 18 by
X. Y., of Plaintiff's Solicitor.

No. 44. [Title as in claim, omitting date of issue of writ.]

Statement of Defence.

Defence.

1. The defendants deny that the said commission of per cent. mentioned in paragraph 4 of the claim is the rate of commission ordinarily charged by del credere agents in the said trade, and say that the same is the ordinary commission for agents other than del credere agents, and they deny that they ever accounted to the plaintiffs for the price of any goods, except after they had received the same from the purchasers.

2. The defendants deny that they were ever liable to the plaintiffs as del credere agents.

8. With respect to the 8th paragraph of the plaintiffs' statement of claim, the defendants say that at the time of the said sale to the said G. H., the said G. H. was a person in good credit. If the truth is that the said G. H. was then in insolvent circumstances, the defendants did not suspect and had not reason to suspect the same, and could not by ordinary care or diligence have ascertained the fact.

4. The defendants admit the allegations contained in paragraphs 1, 2, 8, 6, 7 and 9 of the plaintiffs' statement of claim.

Delivered the day of 18 by
X. Y., of Defendant's Solicitor.

No. 45.

No. 45.

In the High Court of Justice,
 ——— Division.

Bill of
 exchange.

Writ issued 28rd August, 18 .
 Between A. B. and C. D., Plaintiffs,
 and
 E. F. and G. H., Defendants.

Statement of Claim.

1. Messrs. *M. N. & Co.*, on the day of drew a bill Claim.
 of exchange upon the defendants for \$, payable to the order of
 the said Messrs. *M. N. & Co.* 3 months after date, and the defendants
 accepted the same.

2. Messrs. *M. N. & Co.* indorsed the bill to the plaintiffs.

[3. (*Introduced by amendment to meet the defence in the defendant's statement of defence infra*). The plaintiff gave value and consideration for the said bill in manner following, that is to say: on the day 18 , the said Messrs. *M. N. & Co.* were indebted to the plaintiff in about \$ the balance of an account for goods sold from time to time by him to them. On that day they ordered of the plaintiff further goods to the value of about \$ which last mentioned goods have since been delivered by him to them. And at the time of the order for such last mentioned goods it was agreed between Messrs. *M. N. & Co.* and the plaintiff, and the order was received upon the terms, that they should indorse and hand over to him the bill of exchange sued upon, together with various other securities on account of the said previous balance, and the price of the goods so ordered on that day. The said securities, including the bill sued upon, were thereupon on the same day indorsed and handed over to the plaintiff.]

4. The bill became due on the , and the defendant has not paid it.

The plaintiffs claim:—(*state claim*)

The plaintiffs propose that this action should be tried at Kingston.

Delivered the day of 18 , by
 X. Y., of Plaintiffs' Solicitor.

———
 [Title.]

No. 46.

Statement of Defence.

1. The bill of exchange mentioned in the statement of claim was drawn Defence.
 and accepted under the circumstances hereinafter stated, and except as
 hereinafter mentioned there never was any consideration for the accept-
 ance or payment thereof by the defendants.

2. Shortly before the acceptance of the said bill it was agreed between
 the said Messrs. *M. N. & Co.*, the drawers thereof, and the defendants,
 that the said Messrs. *M. N. & Co.* should sell and deliver to the defend-
 ants free on board ship at the port of 1200 tons
 of coal during the month of , and that the defendants should
 pay for the same by accepting the said Messrs. *M. N. & Co.*'s draft for
 \$ at 6 months.

3. The said Messrs. *M. N. & Co.* accordingly drew upon the defendants,
 and the defendants accepted the bill of exchange now sued upon.

4. The defendants did all things which were necessary to entitle them
 to delivery by the said Messrs. *M. N. & Co.* of the said 1200 tons of coals
 under their said contract, and the time for delivery has long since elapsed ;
 but

but the said Messrs. *M. N. & Co.* never delivered the same, or any part thereof, but have always refused to do so, whereby the consideration for the defendant's acceptance has wholly failed.

5. The plaintiffs first received the said bill, and it was first indorsed to them after it was overdue.

6. The plaintiffs never gave any value or consideration for the said bill.

7. The plaintiffs took the said bill with notice of the facts stated in the 2nd, 8rd, and 4th paragraphs hereof.

Delivered the _____ day of 18 by
X. Y., of Defendants' Solicitor.

No. 47. (*Reply where plaintiff does not introduce into his statement of claim the allegations necessary by way of reply to the defence.*)

[Title.]

Reply.

1. The plaintiff joins issue upon the defendant's statement of defence.

2. The plaintiff gave value and consideration for the said bill in manner following, that is to say, on the _____ day of 18, the said Messrs *M. N. & Co.* were indebted to the plaintiff in about \$ _____ the balance of an account for goods sold from time to time by him to them. On that day they ordered of the plaintiff further goods to the value of about \$ _____ which last mentioned goods have since been delivered by him to them. At the time of the order for such last mentioned goods it was agreed between Messrs. *M. N. & Co.* and the plaintiff, and the order was received upon the terms, that they should indorse and hand over to him the bill of exchange sued upon, together with various other securities on account of the said previous balance, and the price of the goods so ordered on that day. The said securities including the bill sued upon, were thereupon on the same day indorsed and handed over to the plaintiff.

Delivered the _____ day of 18 by
X. Y., of Plaintiff's Solicitor.

No. 48.

Promissory Note. In the High Court of Justice,
_____ Division.

Writ issued 3rd November, 18 .

Between A. B., Plaintiff,
and
E. F., Defendant.

Statement of Claim.

Claim.

1. The defendant on the _____ day of _____ made his promissory note, whereby he promised to pay to the plaintiff or his order \$ _____ 3 months after date.

2. The note became due on the _____ day of 18, and the defendant has not paid it.

The plaintiff claims :—

The amount of the note and interest thereon to judgment.

The plaintiff proposes that this action should be tried at Peterborough h.

Delivered the _____ day of 18 by
X. Y., of Plaintiff's Solicitor.

No. 49.

No. 49.

[Title.]

Statement of Defence.

1. The defendant made the note sued upon under the following circumstances :—The plaintiff and defendant had for some years been in partnership as coal merchants, and it had been agreed between them that they should dissolve partnership, that the plaintiff should retire from the business, that the defendant should take over the whole of the partnership assets and liabilities, and should pay the plaintiff the value of his share in the assets after deducting the liabilities.

2. The plaintiff thereupon undertook to examine the partnership books, and inquire into the state of the partnership assets and liabilities ; and he did accordingly examine the books, and make the said inquiries, and he thereupon represented to the defendant that the assets of the firm exceeded \$10,000, and that the liabilities of the firm were under \$3,000, whereas the fact was that the assets of the firm were less than \$5,000, and the liabilities of the firm largely exceeded the assets.

3. The misrepresentations mentioned in the last paragraph induced the defendant to make the note now sued on, and there never was any other consideration for the making of the note.

Delivered the day of 18 by
X. Y., of Defendant's Solicitor.

No. 50.

*Statement of Claim.*Action on Bill
of Exchange.

In the High Court of Justice,
——— Division.

Writ issued 1st February, 18 .

Between A. B. Plaintiff,
and
C. D., Defendant.

1. The plaintiff on the day of 188 , drew Claim.
a bill of exchange upon the defendant for \$ payable 3 months
after date, and the defendant accepted the same.

2. The bill became due on day of 188 , and the
defendant has not paid it.

3. [(*Amendment to meet defence infra.*) The defendant, who at the time of the acceptance of the said bill was an infant within the age of 21 years, ratified and confirmed the said acceptance after he attained full age and before action, by a writing made and signed by him.]

The plaintiff claims :—(*State claim.*)

The plaintiff proposes that this action should be tried at Picton.

Delivered the day of 18 by
X. Y., of Plaintiff's Solicitor.

No. 51.

Statement of Defence.

[Title.]

At the time of making the alleged acceptance of the said bill the defendant was an infant within the age of 21 years.

Delivered the day of 18 by
X. Y., of Defendant's Solicitor.

No. 52.

No. 52. *(Reply where plaintiff does not introduce into his statement of claim the allegations necessary by way of reply to the defence.)*

[Title.]

Reply.

The defendant C. D., who at the time of the acceptance of the said bill was an infant within the age of 21 years, ratified and confirmed the said acceptance after he attained full age and before action, by a writing made and signed by him.

Delivered the day of 18 , by
X. Y., of Plaintiff's Solicitor.

No. 53.

**Bill of
exchange and
consideration.**

**In the High Court of Justice,
—— Division.**

Writ issued 8rd October, 18

Between *A. B.* and *C. D.*, Plaintiffs,
and
E. F. and *G. H.*, Defendants.

Statement of Claim.

Claim.

1. The plaintiffs are merchants, factors, and commission agents, carrying on business in Toronto.

2. The defendants are merchants and commission agents, carrying on business at Montreal.

8. For several years prior to the 18____, the plaintiffs had been in the habit of consigning goods to the defendants for sale, as their agents, and the defendants had been in the habit of consigning goods to the plaintiffs for sale, as their agents; and each party always received the price of the goods sold by him for the other; and a balance was from time to time struck between the parties, and paid.

On the _____ of _____, the moneys so received by the defendants for the plaintiffs, and remaining in their names, largely exceeded the moneys received by the plaintiffs for the defendants, and a balance of \$ _____ was accordingly due to the plaintiffs from the defendants.

4. On or about the _____, 18____, the plaintiffs sent to the defendants a statement of the accounts between them, shewing the said sum as the balance due to the plaintiffs from the defendants; and the defendants agreed to the said statement of accounts as correct, and to the said sum of \$_____ as the balance due by them to the plaintiffs, and agreed to pay interest on such balance if time were given to them.

5. The defendants requested the plaintiffs to give them 8 months' time for payment of the said sum of \$ _____, and the plaintiffs agreed to do so upon the defendants accepting the bills of exchange hereinafter mentioned.

6. The plaintiffs thereupon on the _____ drew 2 bills of exchange upon the defendants, one for \$ _____, and the other for \$ _____, both payable to the order of the plaintiffs 8 months after date, and the defendants accepted the bills.

The said bills became due on the 18 , and the defendants have not paid the bills, or either of them, nor the said sum of \$.

The plaintiffs claim :—

§ and interest to the date of judgment.

The plaintiffs propose that this action should be tried at Toronto.

Delivered the day of 18 by
X. Y., of Plaintiff's Solicitor.

No. 54.

No. 54.

In the High Court of Justice,
 ——— Division.

False im-
 prisonment.

Writ issued 3rd September, 18

Between A. B., Plaintiff,
 and
 E. F., Defendant.

Statement of Claim.

1. The plaintiff is a journeyman painter. The defendant is a builder **Claim.** having his building yard, and carrying on business at Ottawa, and for 6 months before and up to the 22nd August, 18 , the plaintiff was in the defendant's employment as a journeyman painter.

2. On the said 22nd August, 18 , the plaintiff came to work as usual in the defendant's yard, at about 6 o'clock in the morning.

3. A few minutes after the plaintiff had so come to work the defendant's foreman, X. Y., who was then in the yard, called the plaintiff to him, and accused the plaintiff of having on the previous day stolen a quantity of paint, the property of the defendant, from the yard. The plaintiff denied the charge, but X. Y. gave the plaintiff into the custody of a constable, whom he had previously sent for, upon a charge of stealing paint.

4. The defendant was present at the time when the plaintiff was given into custody, and authorized and assented to his being given into custody; and in any case X. Y., in giving him into custody, was acting within the scope and in the course of his employment as the defendant's foreman, and for the purposes of the defendant's business.

5. The plaintiff upon being so given into custody, was taken by the said constable a considerable distance through various streets, on foot, to the police station, and he was there detained in a cell till late in the same afternoon, when he was taken to the police court, and the charge against him was heard before the magistrate then sitting there, and was dismissed.

6. In consequence of being so given into custody, the plaintiff suffered annoyance and disgrace, and loss of time and wages, and loss of credit and reputation, and was thereby unable to obtain any employment or earn any wages for 3 months.

The plaintiff claims \$ damages.

The plaintiff proposes that this action should be tried at Ottawa.

Delivered the day of 18 by
 X. Y., of Plaintiff's Solicitor.

No. 55.

[Title.]

Statement of Defence.

1. The defendant denies that he was present at the time when the **Defence.** plaintiff was given into custody, or that he in any way authorized or assented to his being given into custody. And the said X. Y., in giving the plaintiff into custody, did not act within the scope or in the course of his employment as the defendant's foreman, or for the purposes of the defendant's business.

2. At some time about 5 or 6 o'clock on the , being the evening before the plaintiff was given into custody, a large quantity of paint had been feloniously stolen by some person or persons from a shed upon the defendant's yard and premises.

3. At about 5.30 o'clock on the evening of the the plaintiff, who had left off work about half an hour previously, was seen coming out of

of the shed when no one else was in it, although his work lay in a distant part of the yard from, and he had no business in or near the shed. He was then seen to go to the back of a stack of timber in another part of the yard. Shortly afterwards the paint was found to have been stolen, and it was found concealed at the back of the stack of timber behind which the plaintiff had been seen to go.

4. On the following morning, before the plaintiff was given into custody, he was asked by X. Y. what he had been in the shed and behind the stack of timber for, and he denied having been in either place. X. Y. had reasonable and probable cause for suspecting, and did suspect that the plaintiff was the person who had stolen the paint, and thereupon gave him into custody.

Delivered the
X. Y., of

day of
Defendant's Solicitor.

18 by

No. 56.

Fraud.

In the High Court of Justice,
— Division.

Writ issued 8rd September, 188 .

Between A. B., Plaintiff,
and
E. F., Defendant.

Statement of Claim.

Claim.

1. In or about March, 1880, the defendant caused to be inserted in the Newspaper an advertisement, in which he offered for sale the lease, fixtures, fittings, goodwill, and stock-in-trade of a baker's shop and business, and described the same as an increasing business, and doing 12 barrels a week. The advertisement directed application for particulars to be made to X. Y.

2. The plaintiff having seen the advertisement applied to X. Y., who placed him in communication with the defendant, and negotiations ensued between the plaintiff and the defendant for the sale to the plaintiff of the defendant's bakery at with the lease, fixtures, fittings, stock-in-trade, and good-will.

3. In the course of these negotiations the defendant repeatedly stated to the plaintiff that the business was a steadily increasing business, and that it was a business of more than 12 barrels a week.

4. On the 5th of April, 1890, the plaintiff, believing the said statements of the defendant to be true, agreed to purchase the said premises from the defendant, for \$2000, and paid to him a deposit of \$300 in respect of the purchase.

5. On the 15th of April the purchase was completed, an assignment of the lease executed, and the balance of the purchase money paid. On the same day the plaintiff entered into possession.

6. The plaintiff soon afterwards discovered that at the time of the negotiations for the said purchase by him and of the said agreement, and of the completion thereof, the said business was and had long been a declining business; and at each of those times, and for a long time before, it had never been a business of more than 4 barrels a week. And the said premises were not of the value of \$2000, or any saleable value whatever.

7. The defendant made the false representations hereinbefore mentioned well knowing them to be false, and fraudulently, with the intention of inducing the plaintiff to make the said purchase on the faith of them.

The plaintiff claims \$ damages.

The plaintiff proposes that this action should be tried at Brookville.

Delivered the
X. Y., of

day of
Plaintiff's Solicitor.

18 by

No. 57.

No. 57.

[Title.]

Statement of Defence.

1. The defendant says that at the time when he made the representations mentioned in the 8rd paragraph of the statement of claim and throughout the whole of the transactions between the plaintiff and defendant, and down to the completion of the purchase and the relinquishment by the defendant of the said shop and business to the plaintiff, the said business was an increasing business, and was a business of over 12 barrels a week. And the defendant denies the allegations of the 6th paragraph of the statement of claim.

2. The defendant repeatedly during the negotiations told the plaintiff that he must not act upon any statement or representation of his, but must ascertain for himself the extent and value of the said business. And the defendant handed to the plaintiff for this purpose the whole of his books, shewing fully and truthfully all the details of the said business, and from which the nature, extent, and value thereof could be fully seen, and those books were examined for that purpose by the plaintiff, and by an accountant on his behalf. And the plaintiff made the purchase in reliance upon his own judgment, and the result of his own inquiries and investigations, and not upon any statement or representation whatever of the defendant.

8. The defendant admits the allegations of paragraphs 1, 2, 8 and 4 of the statement of claim.

Delivered the day of 18 by
X. Y., of Defendant's Solicitor.

No. 58.

**In the High Court of Justice,
— Division.**

Guarantee.

Writ issued 8rd September, 1881.

**Between A. B. and C. D., Plaintiffs,
and
E. F. and G. H., Defendants.**

Statement of Claim.

1. The plaintiffs are brewers, carrying on their business at Guelph, Claim. under the firm of X. Y. & Co.

2. In the month of March, 1879, *M. N.* was desirous of entering into the employment of the plaintiffs as a traveller and collector, and it was agreed between the plaintiffs and the defendants and *M. N.*, that the plaintiffs should employ *M. N.* upon the defendants entering into the guarantee hereinafter mentioned.

8. An engagement in writing was accordingly made and entered into, on or about the 30th March, 1879, between the plaintiffs and the defendant, whereby, in consideration that the plaintiffs would employ *M. N.* as their collector, the defendants agreed that they would be answerable for the due accounting by *M. N.* to the plaintiffs for, and the due payment over by him to the plaintiffs of all moneys which he should receive on their behalf as their collector.

4. The plaintiffs employed *M. N.* as their collector accordingly, and he entered upon the duties of such employment, and continued therein down to the 31st December, 1880.

5. At various times between the 29th of September, and the 25th of December, 1880, *M. N.* received on behalf of the plaintiffs and as their collector, sums of money from debtors of the plaintiffs, amounting in the whole to the sum of \$3,400; and of this amount *M. N.* neglected to account for or pay over to the plaintiffs sums amounting in the whole to \$908, and appropriated the last-mentioned sums to his own use.

6.

No. 61.

*Statement of Claim.*Action for
Assault.In the High Court of Justice,
——— Division.

Writ issued 15th March, 18 .

Between A. B., Plaintiff,
and
E. F., Defendant.

1. The plaintiff is a carrying on business at .
 2. On the day of the defendant assaulted the plaintiff, and the plaintiff was seriously hurt and wounded, and was for a long time in consequence of his injuries, unable to transact his business, and incurred expense for nursing and medical attendance.

3. [*Amendment to meet defence infra.*] The defendant pretends that he committed the assault complained of in his own defence; but the facts are that the defendant was trespassing on the plaintiff's land, and refused to leave though requested to do so, whereupon the plaintiff laid his hands on the defendant in order to remove him, using so much force and no more than was necessary for that purpose.]

The plaintiff claims \$ damages.

The plaintiff proposes that this action should be tried at Cobourg.

Delivered the day of 18 by
 X. Y., of Plaintiff's Solicitor.

No. 62.

[Title.]

Statement of Defence.

The plaintiff first assaulted the defendant who, thereupon, committed the alleged assault in his own defence.

Delivered the day of 18 by
 X. Y., of Defendant's Solicitor.

No. 63. (*Reply where plaintiff does not introduce into his statement of claim the allegations necessary by way of reply to the defence.*)

[Title.]

Reply.

The defendant E. F., pretends that he committed the assault complained of in his own defence; but the facts are that the defendant was trespassing on the plaintiff's land, and refused to leave though requested to do so, whereupon the plaintiff laid his hands on the defendant in order to remove him, using so much force and no more than was necessary for that purpose.

Delivered the day of 18 , by
 X. Y., of Plaintiff's Solicitor.

No. 64.

No. 64.

Action against
Railway Com-
pany for Inju-
ries by Col-
lision caused
through
Negligence.

Statement of Claim.

In the High Court of Justice,
— Division.

Writ issued 1881.

Between A. B., Plaintiff.
and
— Defendants.

1. The defendants are carriers of passengers upon a railway from Toronto to

2. In January, 1881, the plaintiff took a ticket from Toronto to and was received by the defendants as a passenger to be by them safely carried in a train which started from Toronto for

3. Owing to the negligence of the defendants in the management of their railway, the train in which the plaintiff was travelling came into collision with an engine, at a short distance from Toronto.

4. The plaintiff was thrown from his seat by the said collision, and much injured about the head, and had his right arm broken.

5. [The following paragraphs may be introduced by amendment to meet Defence infra. The defendants allege that the plaintiff accepted the sum of \$300 in full satisfaction of all cause of action which he might have on account of the said collision, but the facts are as follows :

6. A short time after the collision an officer of the defendants procured the plaintiff to accept the said accord and satisfaction by fraudulently representing that his injuries were of a temporary nature, and that if they should afterwards turn out to be more serious than he anticipated, he would still be able to obtain further compensation from the defendants.

7. The plaintiff fully believing the said representations, and acting upon the faith thereof, was induced thereby to accept the said accord and satisfaction, and then accepted the same subject to the express condition that he should not thereby exclude himself from further compensation from the defendants if his injuries should prove more serious than he then anticipated.

8. After the acceptance of the said accord and satisfaction, the injuries suffered by the plaintiff in the collision did turn out to be more serious than was anticipated at the time aforesaid, and thereupon the plaintiff commenced the present action.]

The plaintiff claims \$ damages.

The plaintiff proposes that this action should be tried at Toronto.

Delivered the day of 18, by
X. Y., of Plaintiff's Solicitor.

No. 65.

[Title.]

Statement of Defence.

1. Shortly after the collision referred to in the statement of claim, one of the officers of the defendants called upon the plaintiff for the purpose of ascertaining from him whether he intended to make any claim against the defendants, arising out of the said collision.

2. At such interview the plaintiff informed the said officer that he did intend to make a claim against the defendants arising out of the said collision ; and it was there and then agreed between the plaintiff and the said officer acting on behalf and by the authority of the defendants, that in consideration that the defendants would pay to the plaintiff a sum of \$300, he,

he, the plaintiff, would accept such sum from the defendants in full satisfaction and discharge of all cause of action which he had or might have against the said defendants on account of the said collision.

3. Thereupon the said officer acting on behalf of the defendants, paid to the plaintiff the sum of \$300, and the plaintiff received the same in full discharge of the aforesaid cause of action.

Delivered the day of 18 by
X. Y., of Defendant's Solicitor.

No. 66. *(Reply where Plaintiff does not introduce into his statement of claim the allegations necessary by way of reply to the Defence.)*

[Title.]

Reply.

1. The defendants allege that the plaintiff accepted the sum of \$300 in full satisfaction of all cause of action which he might have on account of the said collision, but the facts are as follows :

2. A short time after the collision an officer of the defendants procured the plaintiff to accept the said accord and satisfaction by fraudulently representing that his injuries were of a temporary nature, and that if they should afterwards turn out to be more serious than he anticipated, he would still be able to obtain further compensation from the defendants.

3. The plaintiff fully believing the said representations, and acting upon the faith thereof, was induced thereby to accept the said accord and satisfaction, and then accepted the same subject to the express condition that he should not thereby exclude himself from further compensation from the defendants if his injuries should prove more serious than he then anticipated.

4. After the acceptance of the said accord and satisfaction, the injuries suffered by the plaintiff in the collision did turn out to be more serious than was anticipated at the time aforesaid and thereupon the plaintiff commenced the present action.

Delivered the _____ day of _____, 18____, by
X. Y., of _____ Plaintiff's Solicitor.

No. 67.

**In the High Court of Justice,
—— Division.**

Writ issued 3rd September, 1881.

Between *A. B.*, Plaintiff,
and
C. D., Defendant.

Landlord and Tenant

Statement of Claim.

1. On the _____ day of _____ the plaintiff, by Claim. deed, let to the defendant a house and premises, No. 52 _____ Street, in the City of Belleville, for a term of 21 years from the _____ day of _____, at the yearly rent of \$400 payable quarterly.

2. By the said deed, the defendant covenanted to keep the said house and premises in good and tenantable repair.

3. The said deed also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for 21 days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.

M

4.

4. On the _____, a quarter's rent became due; and on the _____, another quarter's rent became due. On the _____, both had been in arrear for 21 days, and both are still due.
5. On the same _____, the house and premises were not, and are not now, in good or tenantable repair, and it would require the expenditure of a large sum of money to reinstate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value.

The plaintiff claims :—

1. Possession of the said house and premises.
2. \$ _____ for arrears of rent.
3. \$ _____ damages for the defendant's breach of his covenant to repair.
4. \$ _____ for occupation of the house and premises from the _____, to the day of recovering possession.

The plaintiff proposes that this action should be tried at Belleville.

Delivered the _____ day of _____ 18 _____ by
X. Y., of _____ Plaintiff's Solicitor.

No. 68.

Recovery of Land. In the High Court of Justice,
Landlord and Tenant. _____ Division.

Writ issued 4th January, 18 _____.

Between A. B., Plaintiff,
and
C. D., Defendant.

Statement of Claim.

1. On the _____ day of _____ the plaintiff let to the defendant a house, No. 62 _____ Street, in the city of Ottawa, as tenant from year to year, at the yearly rent of \$420, payable quarterly, the tenancy to commence on the _____ day of _____.
2. The defendant took possession of the house and continued tenant thereof until the _____ day of _____ last, when the tenancy determined by a notice duly given.
3. The defendant has disregarded the notice and still retains possession of the house.
4. [*Amendment to meet the counter-claim infra.*] (The defendant C.D. sets up in his defence that the plaintiff agreed to give to the defendant a new lease and the plaintiff A. B. admits the agreement alleged in the statement of defence, but he refuses to grant to the defendant a lease, inasmuch as such agreement provided that the lease should contain a covenant by the defendant to keep the house in good repair and a power of re-entry by the plaintiff upon breach of such covenant, and the plaintiff says that the defendant, since the agreement was made, has not kept the house in good repair, and the same is now in a dilapidated condition.)

The plaintiff claims :—

1. Possession of the house.
2. \$ _____ for mesne profits from the _____ day of _____.

The plaintiff proposes that this action should be tried at Ottawa.

Delivered the _____ day of _____ 18 _____ by
X. Y., of _____ Plaintiff's Solicitor.

No. 69.

No. 69. *Statement of Defence and Counter-claim.*

In the High Court of Justice.
 ——— Division.

Between *A. B.*, Plaintiff,
 and
C. D., Defendant.
 (by original action.)

And between *C. D.*, Plaintiff,
 and
A. B., Defendant.
 (by counter-claim.)

The defence and counter-claim of the above-named *C. D.*

1. Before the determination of the tenancy mentioned in the statement Defence. of claim, the plaintiff *A. B.*, by writing dated the _____ day of _____, and signed by him, agreed to grant to the defendant *C. D.*, a lease of the house mentioned in the statement of claim, at the yearly rent of \$450, for the term of 21 years, commencing from the _____ day of _____, when the defendant, *C. D.*'s, tenancy from year to year determined, and the defendant has since that date been and still is in possession of the house under the said agreement.

2. By way of counter-claim the defendant claims to have the agreement Counter-claim. specifically performed, and to have a lease granted to him accordingly.

Delivered the _____ day of _____ 18 ____ by
X. Y., of _____ Defendant's Solicitor.

No. 70.

Reply where plaintiff does not introduce into his statement of claim the allegations necessary by way of reply to the defence :

[Title]

Reply.

The plaintiff, *A. B.*, admits the agreement stated in the defendant, Reply. *C. D.*'s, statement of defence, but he refuses to grant to the defendant a lease, because such agreement provided that the lease should contain a covenant by the defendant to keep the house in good repair, and a power of re-entry by the plaintiff upon breach of such covenant, and the plaintiff says that the defendant, since the making of the said agreement, has not kept the house in good repair, and the same is now in a dilapidated condition.

Delivered the _____ day of _____ 18 ____ by
X. Y., of _____ Plaintiff's Solicitor.

No. 71.

In the High Court of Justice,
 ——— Division.

Recovery of
 Land.

Writ issued _____ 18 ____

Between *A. B.* and *C. D.*, Plaintiffs,
 and
E. L., Defendant.

Statement of Claim.

1. *K. L.*, late of Barrie in the County of Simcoe duly executed his last Claim. will, dated the 4th day of April, 18 __, and thereby devised his lands in _____

in the County of Simcoe unto and to the use of the plaintiffs and their heirs, upon the trusts therein mentioned for the benefit of his daughters Margaret and Martha, and appointed the plaintiffs executors thereof.

2. *K. L.* died on the 3rd day of January 18 , and his said will was proved by the plaintiffs in the proper Surrogate Court on or about the 4th day of February, 18 .

3. *K. L.* was at the time of his death seised in fee of lot No. 1 in the 3rd concession of the township of , and lot No. 5 in the 4th concession of the township of , both in the County of Simcoe.

4. The defendant, soon after the death of *K. L.*, entered into possession of the said lots, and has refused to give them up to the plaintiff.

The plaintiffs claim :—

1. Possession of the said 2 lots.

2. \$ for mesne profits of the premises from the death of *K. L.* till such possession shall be given.

The plaintiffs propose that this action should be tried at Barrie.

Delivered the
X. Y., of

day of
Plaintiff's Solicitor.

18 by

No. 72.

Trespass.
to Land.

In the High Court of Justice.
— Division.

Writ issued 3rd October, 18 .

Between *A. B.*, Plaintiff,
and
E. F., Defendant.

Statement of Claim.

Claim.

1. The plaintiff was on the 5th March, 18 , and still is the owner and occupier of a farm in the Township of in the County of , being lot No. 4 in the 7th concession of the said Township.

2. A private road, known as Highfield Lane, runs through a portion of the plaintiff's farm. It is bounded upon both sides by fields of the plaintiff's and is separated therefrom by a fence and ditch.

3. For a long time prior to the 5th March, 18 , the defendant had wrongfully claimed to use the said road for his horses, carts and waggons on the alleged ground that the same was a public highway, and the plaintiff had frequently warned him that the same was not a public highway, but the plaintiff's private road, and that the defendant must not so use it.

4. On the 5th March, 18 , the defendant came with a cart and horse, and a large number of servants and workmen, and forcibly used the road, and broke down and removed a gate which the plaintiff had caused to be placed across the same.

5. The defendant and his servants and workmen on the same occasion pulled down and damaged the plaintiff's fence and ditch upon each side of the road, and went upon the plaintiff's field beyond the fence and ditch, and injured the crops there growing, and dug up and injured the soil of the road; and in any case the acts mentioned in this paragraph were wholly unnecessary for the assertion of the defendant's alleged right to use, or the user of the said road as a highway.

The

The plaintiff claims :—

1. Damages for the wrongs complained of.
2. An order restraining the defendant from any repetition of any of the acts complained of.

3. Such further relief as the nature of the case may require.

The plaintiff proposes that this action should be tried at Woodstock.

Delivered the _____ day of _____ 18 ____ by
X. Y., of _____ Plaintiff's Solicitor.

No. 73.

[Title.]

Statement of Defence.

1. The defendant says that the road was and is a public highway for horses and carriages; and a few days before the 5th of March, 18 , the plaintiff wrongfully erected the gate across the road for the purpose of obstructing and preventing, and it did obstruct and prevent the use of the road as a highway. And the defendant on the said 5th March, 18 , caused the said gate to be removed, in order to enable him lawfully to use the road by his horses, carts and waggons as a highway.

2. The defendant denies the allegations of the 5th paragraph of the statement of claim, and says that neither he nor any of his workmen or servants did any act, or used any violence, other than was necessary to enable the plaintiff lawfully to use the highway.

Delivered the day of 18 by
X. Y., of Defendant's Solicitor.

No. 74.

Form of Demurrer.

In the High Court of Justice,
—— Division.

A. B. v. C. D.

The defendant [plaintiff] demurs to the [plaintiff's statement of complaint or defendant's statement of defence, or of set-off, or of counter-claim] [or to so much of the plaintiff's statement of complaint as claims or as alleges as a breach of contract the matters mentioned in paragraph 7, or as the case may be], and says that the same is bad in law on the ground that [here state a ground of demurrer] and on other grounds sufficient in law to sustain this demurrer.

Delivered the _____ day of _____ 18__ by
X. Y., of _____ Plaintiff's Solicitor.

APPENDIX (E).

PRÆCIPES.

No. 75.

Amended Summons.

[Title, &c.]

Amend in pursuance of order [*or fiat*] dated the writ of summons
in this action by (*set out amendments when required*).

Dated the day of 18 .

(Signed)
(Address)

Solicitor for the

No. 76.

Renewed Summons.

[Title, &c.]

Required in pursuance of order dated , a renewed writ of
summons in this action,

Dated the day of 18 .

(Signed)
(Address)

Solicitor for the

No. 77.

Entry of Appearance.

[Title, &c.]

Enter an appearance for in this action .

Dated the day of 18 .

(Signed)
(Address)

The said defendant require (*or do not require, as the case may be*) a
statement of claim to be delivered.

(*In case the defendant wishes to dispute the amount claimed, and to make
no other defence, the following may be added*), The defendant disputes the
amount claimed by the plaintiff, (*or the defendant insists that the amount
due to the plaintiff is \$ only, or the defendant insists that the amount
due to the plaintiff is, \$ for principal and \$ for interest, since
the day of &c., and no more,*) as the case may be.

No. 78.

No. 78. *Entry of Appearance in action for land limiting Defence.*

[Title, &c.]

Enter an appearance for the defendant in this action. The said defendant limits his defence to part only of the property mentioned in the writ of summons, namely, to

Dated the day of 18 .
(Signed)
(Address)

The said defendant require a statement of claim to be delivered.

No. 79. *Entry of Appearance, by new defendant under
Order 44, Rule 3.*

[Title, &c.]

Enter an appearance for
dated the day of
ings in this action.

Dated the day of 18 .
(Signed)
(Address)

No. 80. *Entry of Appearance, by party served with
notice, under Order 12, Rule 20.*

[Title, &c.]

Enter an appearance for _____ to the notice issued in this action on
the _____ day of _____ 18_____, by the defendant _____ under the
Rules of the Supreme Court, Order 12, Rule 20.

Dated the day of 18 .
 (Signed)
 (Address)

The said defendant require a statement of claim to be delivered.

No. 81. *Entry of Appearance to Counter-claim.*

[Title, &c.]

Enter an appearance for defendant in this action. to the counter-claim of the above-named

Dated the day of 18 .
(Signed)
(Address)

No. 82.

No. 82.

Mandamus.

[Title, &c.]

Required in pursuance of order dated a writ of mandamus directed
to commanding to returnable

Dated the day of 18 . .

(Signed)
(Address)

Solicitor for the

No. 83.

Prohibition.

In the High Court of Justice,
Division.

In the matter of a certain now depending in the Court
Between and Plaintiff,
and Defendant.

Required a writ of prohibition directed to the judge of the above-named
Court and to the above-named plaintiff to prohibit them from further
proceeding in the said

Dated the day of 18 . .

(Signed)
(Address)

Solicitor for the

No. 84.

Certiorari.

[Title, &c.]

Required in pursuance of order dated a writ of certiorari directed to

Dated the day of 18 . .

(Signed)
(Address)

Solicitor for the

No. 85.

Entry for Argument Generally.

[Title, &c.]

Set down for argument the

Dated the day of 18 . .

(Signed)
(Address)

No. 86.

No. 86. *Entry of Demurrer for Argument.*

[Title, &c.]

Enter for argument the demurrer of to the in this action.

Dated the day of 18 .

(Signed)

(Address)

No. 87. *Entry of Special Case*

[Title, &c.]

Set down for argument the special case filed in this action on the .
 day of , 18 ; (or set down the dated the day of
 18 , of Mr. the referee in this
 for hearing as a special case).

Dated the day of 18 .

(Signed)

(Address)

No. 88. *Search.*

[Title, &c.]

Search for
Dated the day of 18 .

(Signed)

(Address)

Agent for

Solicitor

No. 89. *Entry of Action for Trial.*

[Title, &c.]

Enter this action for trial.

Dated the day of 18 .

(Signed)

(Address)

No. 90. *Commission to Examine Witnesses.*

[Title, &c.]

Required in pursuance of order dated a commission to examine
 witnesses directed to

Dated the day of 18

(Signed)

(Address)

Solicitor for the

No. 91.

No. 91.

Habeas Corpus ad Testificandum.

[Title, &c.]

Required in pursuance of order dated a writ of habeas corpus ad
testificandum directed to the to bring before

Dated the day of 18

(Signed)
(Address)

Solicitor for the

No. 92.

Entry of Appeal.

[Title, &c.]

Enter this appeal from the order [*or judgment*] of in this
action, dated the day of 18

(Signed)
(Address)

No. 93.

Fieri Facias.

[Title, &c.]

Required a writ of fieri facias directed to the sheriff of to levy
against *C. D.* the sum of \$ and interest
thereon at the rate of \$ per centum per annum from the
day of [and \$ costs] to

Judgment [*or order*] dated day of
Taxing master's certificate, dated day of

Dated the day of

(Signed)
(Address)

Solicitor for the [*party on whose behalf writ is
to issue.*]

No. 94.

Venditioni Exponas.

[Title, &c.]

Required a writ of venditioni exponas directed to the sheriff of
to sell the goods and of *C. D.*, taken under a writ of fieri
facias in this action tested day of

Dated the day of 18

(Signed)
(Address)

Solicitor for the

No. 95.

No. 95.

Writ of Sequestration.

[Title, &c.]

Required a writ of sequestration against *C. D.* for not
 at the suit of *A. B.* directed to the sheriff of
 Order dated day of
 Dated the day of 18 . .
 (Signed)
 (Address)
 Solicitor for the

No. 96.

Writ of Possession. (Lands.)

[Title, &c.]

Required a writ of possession directed to the sheriff of to
 deliver possession to *A. B.* of
 Judgment dated day of
 Dated the day of 18 . .
 (Signed)
 (Address)
 Solicitor for the

No. 97.

Writ of Delivery. (Chattels.)

[Title, &c.]

Required a writ of delivery directed to the sheriff of to
 make delivery to *A. B.* of
 Dated the day of 18 . .
 (Signed)
 (Address)
 Solicitor for the

No. 98.

Writ of Attachment.

[Title, &c.]

Required in pursuance of order dated day of
 an attachment directed to the sheriff of against *C. D.* for
 not delivering to *A. B.*
 Dated the day of 18 . .
 (Signed)
 (Address)
 Solicitor for the

APPENDIX (F).

SUBPENAS, &c., FOR EXAMINATION OF WITNESSES.

No. 99. *Subpœna ad Testificandum (General Form).*

In the High Court of Justice,
— — — Division.

Between

Plaintiff.

and

Defendant.

**Victoria, by the Grace of God of the United Kingdom of Great Britain
and Ireland Queen, Defender of the Faith, to greeting : We com-
mand you to attend before at on day the day
of 18 , at the hour of in the noon, and so from
day to day, until the above cause is tried, to give evidence on behalf of
the (plaintiff or defendant)**

Witness, the Honourable President, &c., the
day of 183 .

No. 100. *Subpoena Duces Tecum (General Form).*

[Title, &c.]

Victoria by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to greeting: We command you to attend before at on day the day of 18, at the hour of in the noon, and so from day to day until the above cause is tried, to give evidence on behalf of and also to bring with you and produce at the time and place aforesaid (*specify documents to be produced.*)

Witness, the Honourable President, &c., the
day of 188 .

No. 101. *Subpœna ad Testificandum at Assizes.*

[Title, &c.]

Victoria, by the Grace of God of the United Kingdom of Great Britain
and Ireland Queen, Defender of the Faith, to greeting : We com-
mand you to attend before our justices assigned to take the assizes in and
for the county of to be holden at on day the day
of 18 , at the hour of in the noon, and so from day to
day during the said assizes until the above cause is tried, to give evi-
dence on behalf of the

Witness, the Honourable President, &c., the
day of 188 .

No. 102.

No. 102.

Supp̄ana Duces Tecum at Assizes.

[Title, &c.]

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to greeting : We command you to attend before our justices assigned to take the assizes in and for the county of to be holden at on day the day of 18 , at the hour of in the noon, and so from day to day during the said assizes, until the above cause is tried, to give evidence on behalf of the , and also to bring with you and produce at the time and place aforesaid (*specify documents to be produced.*)

Witness, the Honourable
day of

President, &c., the

No. 103.

Commission to Examine Witnesses.

[Title, &c.]

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to of commissioner named by and on behalf of the and to of a commissioner named by and on behalf of the greeting : Know ye that we in confidence of your prudence and fidelity have appointed you and by these presents give you power and authority to examine on interrogatories and *viva voce* as hereinafter mentioned witnesses on behalf of the said and respectively at before you or either of you.—And we command you as follows :

1. Both the said and the said shall be at liberty to examine on interrogatories, and *viva voce* on the subject matter thereof or arising out of the answers thereto, such witnesses as shall be produced on their behalf with liberty to the other party to cross-examine the said witnesses on cross-interrogatories and *viva voce* on the subject matters thereof or arising out of the answers thereto, the party producing any witness for examination being at liberty to re-examine him *viva voce*; and all such additional *viva voce* questions, whether on examination, cross-examination, or re-examination, shall be reduced into writing, and with the answers thereto shall be returned with the said commission.

2. Not less than 48 hours before the examination of any witness on behalf of either of the said parties, notice in writing, signed by one of you, the commissioner of the party on whose behalf the witness is to be examined, and stating the time and place of the intended examination and the names of the witnesses to be examined, shall be given to the other party by delivering the notice to [*name and address of the person named in the order for this purpose*] (or to a grown up person there) and shall be given also to the commissioner of the other party at the address aforesaid of such commissioner or to a grown up person for him at the said last mentioned address, and if the commissioner of that party neglect to attend pursuant to the notice, then you, the commissioner of the party on whose behalf the notice is given, shall be at liberty to proceed with and take the examination of the witness or witnesses *ex parte*, and adjourn any meeting or meetings, or continue the same from day to day until all the witnesses intended to be examined by virtue of the notice have been examined, without giving any further or other notice of the subsequent meeting or meetings.

3. In the event of any witness on his examination, cross-examination, or re-examination producing any book, document, letter, paper, or writing, and

and refusing for good cause to be stated in his deposition to part with the original thereof, then a copy thereof, or extract therefrom, certified by the commissioners or commissioner present and acting to be a true and correct copy or extract shall be annexed to the witnesses' deposition.

4. Each witness to be examined under this commission shall be examined on oath, affirmation, or otherwise in accordance with his religion by or before the commissioners or commissioner present at the examination.

5. If any one or more of the witnesses do not understand the English language (the interrogatories, cross-interrogatories, and *viva voce* questions, if any, being previously translated into the language with which he or they is or are conversant), then the examination shall be taken in English through the medium of an interpreter or interpreters to be nominated by the commissioners or commissioner present at the examination, and to be previously sworn according to his or their several religions by or before the said commissioners or commissioner truly to interpret the questions to be put to the witness and his answers thereto.

6. The depositions to be taken under this commission shall be subscribed by the witness or witnesses, and by the commissioners or commissioner who shall have taken the depositions.

7. The interrogatories, cross-interrogatories, and depositions, together with any documents referred to therein, or certified copies thereof or extracts therefrom, shall be sent to the _____ of the Supreme Court of Judicature on or before the _____ day of _____ inclosed in a cover under the seals or seal of the commissioners or commissioner.

8. Before you or any of you, in any manner act in the execution hereof you shall severally take the oath hereon indorsed on the Holy Evangelists or otherwise in such other manner as is sanctioned by the form of your several religions and is considered by you respectively to be binding on your respective consciences.

And we give you or any one of you authority to administer such oath to the other or others of you.

Witness, the Honourable _____ President, &c., the _____ day of _____ in the year of Our Lord one thousand eight hundred and _____

This writ was issued by
of _____
agent for _____
of _____
solicitor for the _____
who reside at _____

Commissioners' Oath.

You shall, according to the best of your skill and knowledge, truly and faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the commission within written. So help you God.

Clerk's Oath.

You shall truly, faithfully, and without partiality to any or either of the parties in this cause, take, write down, transcribe, and engross all and every the questions which shall be exhibited or put to all and every witness and witnesses, and also the depositions of all and every such witness and witnesses produced before and examined by the said commissioners named in the commission within written, as far forth as you are directed and employed by the commissioners to take, write down, transcribe or engross the said questions and depositions.

So help you God.

Witnesses'

Witnesses' Oath.

You are true answer to make to all such questions as shall be asked you, without favour or affection to either party, and therein you shall speak the truth, the whole truth, and nothing but the truth. So help you God.

Interpreter's Oath.

You shall truly and faithfully, and without partiality to any or either of the parties in this cause, and to the best of your ability, interpret and translate the oath or oaths, affirmation or affirmations which shall be administered to, and all and every the questions which shall be exhibited or put to all and every witness and witnesses produced before and examined by the commissioners named in the commission within written, as far forth as you are directed and employed by the said commissioners, to interpret and translate the same out of the English into the language of such witness or witnesses, and also in like manner to interpret and translate the respective depositions taken and made to such questions out of the language of such witness or witnesses into the English language. So help you God.

Direction of Interrogatories, &c., when returned by the Commissioners.
The of the Supreme Court of Judicature,
Osgoode Hall,
Toronto.

No. 104. *Habeas Corpus ad Testificandum.*

[Title, &c.]

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to the [keeper of our prison at]

We command you that you bring , who it is said is detained in our prison under your custody , before at on day the day of at the hour of in the noon, and so from day to day until the above action is tried, to give evidence on behalf of the . And that immediately after the said shall have so given his evidence you safely conduct him to the prison from which he shall have been brought.

Witness, the Honourable President, &c., the day of

This writ was issued by solicitor for the who reside at

APPENDIX (G).

CERTIORARI AND PROHIBITION.

No 105. *Certiorari to County Court.*

[Title, &c.]

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to the judge of the County Court of greeting :

We, willing for certain causes to be certified of a certain cause pending in our Court before you against at the suit of command you that you

you send to us forthwith in the Division of our High Court of Justice at Toronto, the proceedings in the said cause with all things touching the same, as fully and entirely as the same remain in our said Court before you, by whatsoever names the parties may be called therein, together with the writ, that we may further cause to be done thereupon what of right we shall see fit to be done.

Witness, the Honourable President, &c., the
day of .

This writ was issued by
of
agent for
of
solicitor for the who reside at

No. 106.

Certiorari (General).

[Title, &c.]

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to the greeting :

We, willing for certain causes to be certified of command you that you send to us in our High Court of Justice at Toronto, on the day of the aforesaid, with all things touching the same, as fully and entirely as they remain in together with this writ, that we may further cause to be done thereupon what of right we shall see fit to be done.

Witness, the Honourable President, &c., the
day of .

This writ was issued by
of
agent for
of
solicitor for the who reside at

No. 107.

Prohibition.

[Title, &c.]

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to the [judge of the County Court holden at] and to [name of plaintiff] of greeting :

Whereas we have been given to understand that you the said have [entered an action against] *C. D.* in the said Court, and that the said Court has no jurisdiction in the said [cause] or to hear and determine the said [action] by reason that [state facts shewing want of jurisdiction].

We therefore hereby prohibit you from further proceeding in the said [action] in the said Court.

Witness, the Honourable President, &c., the
day of .

This writ was issued by
of
agent for
of
solicitor for the who reside at

APPENDIX

APPENDIX (H).

ORDERS.

No. 108. *Summons (General Form).**(For use in outer counties.)*In the High Court of Justice,
— Division.

Between

and

Plaintiff,

Defendant.

Let all parties concerned attend before me at my Chambers on
day the day of 18 , at o'clock in the
noon, on the hearing of an application on the part of for (state
object of application, as in a notice of motion, according to forms in Ap-
pendix B).

Dated the day of 18 .

This summons was taken out by of solicitor, for
To

No. 109. *Order (General Form).*In the High Court of Justice,
— Division.

[Name of the Judge or Master] in Chambers.

Between

and

Plaintiff,

Defendant.

Upon hearing , and upon reading the affidavit of filed
the day of 18 , and

It is ordered and that the costs of this application be

Dated the day of 18 .

No. 110. *Order for Service out of Jurisdiction.*In the High Court of Justice,
— Division.

[Name of the Judge or Master] in Chambers.

Between

and

Plaintiff,

Defendant

Upon hearing , and upon reading the affidavit of filed
the day of 18 , and

It is ordered that the plaintiff be at liberty to issue a writ for
service out of the jurisdiction against

And it is further ordered that the time for appearance to the said writ
be within days after the service thereof, and that the costs of this
application be

Dated the day of 18 .

N

No. 111.

No. 114.

Order for Time.

In the High Court of Justice,
 _____ Division.

[Name of the Judge or Master] in Chambers.

Between _____ and _____
 Plaintiff,
 Defendant.

Upon hearing _____, and upon reading the affidavit of _____ filed
 the _____ day of _____ 18 _____, and
 It is ordered that the _____ shall have _____ time for, &c. and that
 the costs of this application be _____

Dated the _____ day of _____ 18 _____.

No. 115. *Order under Order X., No 1 (final judgment).*

In the High Court of Justice,
 _____ Division.

[Name of the Judge or Master] in Chambers.

Between _____ and _____
 Plaintiff,
 Defendant.

Upon hearing _____, and upon reading the affidavit of _____ filed
 the _____ day of _____ 18 _____, and

It is ordered that the plaintiff may sign final judgment in this action for
 the amount indorsed on the writ, with interest, if any, and costs to be
 taxed, and that the costs of this application be _____

Dated the _____ day of _____ 18 _____.

No. 116. *Order under Order X., No. 2 (leave to defend unconditionally).*

In the High Court of Justice,
 _____ Division.

[Name of the Judge or Master] in Chambers.

Between _____ and _____
 Plaintiff,
 Defendant.

Upon hearing _____, and upon reading the affidavit of _____ filed
 the _____ day of _____ 18 _____, and

It is ordered that the defendant be at liberty to defend this action by
 delivering a statement of defence within _____ days after delivery of
 the plaintiff's statement of claim, and that the costs of this application be _____

Dated the _____ day of _____ 18 _____.

No. 117.

No. 117. *Order under Order X., No. 3 (leave to defend on payment into Court).*

In the High Court of Justice,
 _____ Division.

[Name of the Judge or Master] in Chambers.

Between _____ Plaintiff,
 and _____ Defendant.

Upon hearing _____, and upon reading the affidavit of _____ filed the
 day of 18 _____, and

It is ordered that if the defendant _____ pay into Court within a week from the date of this order the sum of \$ _____, he be at liberty to defend this action by delivering a statement of defence within _____ days after delivery of the plaintiff's statement of claim, but that if that sum be not so paid the plaintiff be at liberty to sign final judgment for the amount indorsed on the writ of summons, with interest, if any, and costs, and that in either event the costs of this application be

Dated the _____ day of 18 _____.

No. 118. *Order under Order X., No. 4 (leave to defend as to part on payment into Court, and as to residue unconditionally).*

In the High Court of Justice,
 _____ Division.

[Name of the Judge or Master] in Chambers.

Between _____ Plaintiff,
 and _____ Defendant.

Upon hearing _____, and upon reading the affidavit of _____ filed the
 day of 18 _____, and

It is ordered that if the defendant _____ pay into Court within a week from the date of this order the sum of \$ _____, he be at liberty to defend this action as to the whole of the plaintiff's claim.

And it is ordered that if that sum be not so paid the plaintiff be at liberty to sign judgment for that sum and the defendant be at liberty to defend this action as to the residue of the plaintiff's claim.

And it is ordered that in either event the statement of defence be delivered within _____ days after delivery of the plaintiff's statement of claim, and that the costs of this application be

Dated the _____ day of 18 _____.

No. 119. *Order to Amend.*

In the High Court of Justice,
 _____ Division.

[Name of the Judge or Master] in Chambers.

Between _____ Plaintiff,
 and _____ Defendant.

Upon hearing _____, and upon reading the affidavit of _____ filed the
 day of 18 _____, and

It is ordered that the plaintiff be at liberty to amend the writ of summons in this action by _____, and that the costs of this application be

Dated the _____ day of 18 _____.

No. 120.

No. 120. *Order for names of Partners.*

**In the High Court of Justice,
— Division.**

[Name of the Judge or Master] in Chambers.

Between _____ Plaintiff,
and _____

Defendant.

Upon hearing _____, and upon reading the affidavit of _____ filed the
day of _____ 18____, and _____.

It is ordered that the _____ furnish the _____ with a statement in writing, verified by affidavit, setting forth the names of the persons constituting the members or co-partners of their firm, pursuant to the _____ rule of the Supreme Court, and that the costs of this application be _____

Dated the day of 18

No. 121. *Order for Particulars (General).*

**In the High Court of Justice,
—— Division.**

[Name of the Judge or Master,] in Chambers.

Between _____ **Plaintiff,**

and

Defendant.

Upon hearing _____, and upon reading the affidavit of _____ filed the
day of _____ 18____, and _____.

It is ordered that the plaintiff deliver to the defendant an account in writing of the particulars of the plaintiff's claim in this action, and that unless such particulars be delivered within days from the date of this order all further proceedings be stayed until the delivery thereof, and that the costs of this application be

• Dated the day of 18 .

No. 122. *Order for Particulars (Accident Case).*

**In the High Court of Justice,
—— Division.**

[Name of the Judge or Master,] in Chambers.

Between _____ and _____ Plaintiff,

Defendant.

Upon hearing _____, and upon reading the affidavit of
filed the _____ day of _____ 18 _____, and _____.

It is ordered that the plaintiff deliver to the defendant an account in writing of the particulars of the injuries and expenses mentioned in the statement of claim, together with the time and place of the accident, and the particular acts of negligence complained of, and that unless such particulars be delivered within _____ days from the date of this order all further proceedings in this action be stayed until the delivery thereof, and that the costs of this application be _____

Dated the day of 18

No. 123.

No. 123. *Order to Discharge or Vary Order on Application by Third Party.*

In the High Court of Justice,
 _____ Division.

[*Name of the Judge or Master,*] in Chambers.

Between _____ and _____
 Plaintiff,
 Defendant.

Upon hearing _____, and upon reading the affidavit of
 filed the _____ day of _____ 18____, and
 It is ordered that the order of _____ in this action dated the
 day of _____ 18____ be discharged [*or varied by* _____], and that the
 costs of this application be _____

Dated the _____ day of _____ 18____.

No. 124. *Order to Dismiss for want of Prosecution.*

In the High Court of Justice,
 _____ Division.

[*Name of the Judge or Master,*] in Chambers.

Between _____ and _____
 Plaintiff,
 Defendant.

Upon hearing _____, and upon reading the affidavit of _____ filed
 the _____ day of _____ 18____, and
 It is ordered that this action be, for want of prosecution, dismissed
 with costs, to be taxed and paid to the defendant by the plaintiff, and
 that the costs of this application be (*costs in the cause*) _____

Dated the _____ day of _____ 18____.

No. 125. *Order for Production under Order 27, R. 4.*

In the High Court of Justice,
 _____ Division.

[*Name of the Judge or Master,*] in Chambers.

Between _____ and _____
 Plaintiff,
 Defendant.

Upon hearing _____
 It is ordered that the _____ do, within 10 days after the service of
 this order, make discovery on oath of the documents which are or have
 been in _____ possession or power relating to any matters in question
 in this action and that the costs of this application be _____

Dated the _____ day of _____ 18____.

No. 126.

No. 126. *Order to Produce Documents for Inspection under Order 27, R. 15-20.*

In the High Court of Justice,
 ——— Division.

[*Name of the Judge or Master*] in Chambers.

Between

Plaintiff,

and

Defendant.

Upon hearing _____, and upon reading the affidavit of _____ filed the _____ day of _____ 18____, and

It is ordered that the _____ do, at all seasonable times, on reasonable notice, produce at the office of _____ solicitor, situate at _____ the following documents, namely _____ and that the _____ be at liberty to inspect and peruse the documents so produced and to take copies and abstracts thereof and extracts therefrom, at _____ expense, and that in the meantime all further proceedings be stayed, and that the costs of this application be _____

Dated the _____ day of _____ 18____.

No. 127. *Order of Reference.*

In the High Court of Justice,
 ——— Division.

[*Name of the Judge or Master,*] in Chambers.

Between

Plaintiff,

and

Defendant.

Upon hearing _____ and by consent

It is ordered as follows:

[*State matters to be referred*] shall be referred to the award of _____ who shall make and publish his award in writing on or before the _____ next, or on or before such further day as he may from time to time appoint and signify in writing signed by him and indorsed on this order and _____ the costs of the said cause and the costs of the reference and award shall be _____

Dated the _____ day of _____ 18____.

No. 128. *Order to remove Judgment from County Court.*

In the High Court of Justice,
 ——— Division.

[*Name of the Judge or Master,*] in Chambers.

In the matter of a certain cause in the County Court of _____ wherein

Plaintiff,

and

Defendant.

Upon reading the affidavit of _____ filed the _____ day of _____ 18____, and _____, and the certified copy of the judgment in the cause above mentioned.

It is ordered that a writ of certiorari issue to remove the said judgment from the above-named County Court into the _____ Division of the High Court of Justice.

Dated the _____ day of _____ 18____.

No. 129.

No. 129. *Order for Commission to Examine Witnesses.*

In the High Court of Justice,
 _____ Division.

[*Name of the Judge or Master,*] in Chambers.

Between

Plaintiff,

and

Defendant.

Upon hearing _____ and upon reading the affidavit of _____ filed the
 day of 18 _____, and

It is ordered as follows :

1. A commission may issue directed to _____ of _____ a commissioner named by and on behalf of the _____ and to _____ of _____ a commissioner named by and on behalf of the _____ for the examination upon interrogatories and *viva voce* of witnesses on behalf of the said _____ and _____ respectively at _____ aforesaid before the said commissioners.

2. _____ days previously to the sending out of the said commission, the solicitor of the said _____ shall give to the solicitor of the said _____ notice in writing of the mail or other conveyance by which the commission is to be sent out.

3. The costs of this order, and of the commission to be issued in pursuance hereof, and of the interrogatories, cross-interrogatories, and depositions to be taken thereunder, together with any document, copy, or extract and the official copies thereof, and all other costs incidental thereto, shall be

Dated the _____ day of 18 _____.

No. 130. *Order of Reference under S. 47 of the Act.*

In the High Court of Justice,
 _____ Division.

[*Name of the Judge or Master,*] in Chambers.

Between

Plaintiff,

and

Defendant.

Upon hearing _____, and upon reading the affidavit of _____ filed the
 day of 18 _____, and

It is ordered that the following question arising in this action namely,
 _____ be referred for inquiry and report to _____ under section 47 of the
 Judicature Act, and that the costs of this application be

Dated the _____ day of 18 _____.

No. 131. *Order of Reference under S. 48 of the Act.*

In the High Court of Justice,
 _____ Division.

[*Name of the Judge or Master,*] in Chambers.

Between

Plaintiff,

and

Defendant.

Upon hearing _____ and upon reading the affidavit of _____ filed
 the _____ day of 18 _____, and

It is ordered that the [*state whether all or some and, if so, which of the questions are to be tried*] in this action be tried by

And _____ is ordered that the costs of this application be

Dated the _____ day of 18 _____.

No. 132.

No. 132. *Order of Reference to Master.*

In the High Court of Justice,
 _____ Division.

[*Name of the Judge or Master,*] in Chambers.

Between _____ and _____
 Plaintiff,
 Defendant.

Upon hearing _____, and upon reading the affidavit of _____ filed
 the _____ day of _____ 18 _____, and _____.

It is ordered that this action [or the matters of account in this action,
 or the following questions in this action being matters of account, namely,
stating them] be referred to the certificate of _____

_____ with all the powers as to certifying and
 amending of a Judge of the High Court of Justice, and that the costs of
 the _____ and of the reference be in the discretion of the said _____,
 and that the costs of this application be _____

Dated the _____ day of _____ 18 _____.

No. 133. *Order for Examination of Witnesses before Trial.*

In the High Court of Justice,
 _____ Division.

[*Name of the Judge or Master,*] in Chambers.

Between _____ and _____
 Plaintiff,
 Defendant.

Upon hearing _____ and upon reading the affidavit of _____ filed
 the _____ day of _____ 18 _____, and _____.

It is ordered that _____ a witness on behalf of the _____ be examined
visz voce (on oath or affirmation) before _____.

[or before _____ esquire, special examiner], the
 solicitor or agent giving to the _____ solicitor or agent _____ notice in
 writing of the time and place where the examination is to take place.

And it is further ordered that the examination so taken be filed in the
 Office of _____, and that an office copy or copies thereof may be
 read and given in evidence on the trial of this cause, saving all just excep-
 tions, without any further proof of the absence of the said witness than
 the affidavit of the solicitor or agent of the _____ as to his belief, and
 that the costs of this application be _____

Dated the _____ day of _____ 18 _____.

No. 136. *Order on Application to tax Solicitor's Bill of Costs.*

**In the High Court of Justice,
— Division.**

[Name of the Judge or Master] in Chambers.

In the matter of

Gentleman,
One of the Solicitors of the Supreme Court.

Upon application of _____
It is ordered that the bill of fees, charges and disbursements delivered to
the applicant by the above-named solicitor (or by the above solicitor to
as the case may be) be referred to the _____ to be taxed,
and that the said _____ do take an account of all sums of money
received by the said solicitor of or on account of the applicant—

And it is ordered that the costs of this application be

Dated **the** **day of** **18** .

No. 137. *Order to try Action in County Court.*

**In the High Court of Justice,
— Division.**

[Name of the Judge or Master] in Chambers.

Between

and

Plaintiff,

Defendant.

Upon hearing _____, and upon reading the affidavit of _____ filed the
day of _____ 18____, and _____.

It is ordered that this action be tried before the County Court of
, and that the costs of this application be

Dated the day of 18 .

No. 138. *Order for Examination touching Means.*

**In the High Court of Justice,
—— Division.**

Judge in Chambers.

**Between Judgment Creditor,
and Judgment Debtor.**

Upon hearing _____, and upon reading the affidavit of _____ filed the
day of _____ 18____, and _____.

It is ordered that the above named do attend before the in Chambers on the day of next, at in the noon, to be examined upon oath touching his means of paying the judgment debt, and that the costs of this application be .

Dated the day of 18 .

No. 139.

No. 139.

Interpleader Order, No. 1.

In the High Court of Justice,
 _____ Division.

[*Name of the Judge or Master*] in Chambers.

Between _____ Plaintiff,
 and _____ Defendant,
 and between _____ Claimant,
 and _____ Respondent.

Upon hearing _____, and upon reading the affidavit of _____ filed the _____ day of _____ 18____, and _____.

It is ordered that the claimant be barred, that no action be brought against the above-named [sheriff] _____, and that the costs of this application be _____.

Dated the _____ day of _____ 18____.

No. 140.

Interpleader Order, No. 2.

In the High Court of Justice,
 _____ Division.

[*Name of the Judge or Master*] in Chambers.

Between _____ Plaintiff,
 and _____ Defendant,
 and _____ Claimant.

Upon hearing _____, and upon reading the affidavit of _____ filed the _____ day of _____ 18____, and _____.

It is ordered that the above-named claimant be substituted as defendant in this action in lieu of the present defendant, and that the costs of this application be _____.

Dated the _____ day of _____ 18____.

No. 141.

Interpleader Order, No. 3.

In the High Court of Justice,
 _____ Division.

[*Name of the Judge or Master*] in Chambers.

Between _____ Plaintiff,
 and _____ Defendant,
 and between _____ Claimant,
 and the said _____ execution creditor, and _____ Respondents.
 the sheriff of _____

Upon hearing _____, and upon reading the affidavit of _____ filed the _____ day of _____ 18____, and _____.

It

It is ordered that the said sheriff proceed to sell the goods seized by him under the writ of fieri facias issued herein, and pay the net proceeds of the sale, after deducting the expenses thereof, into Court in this cause, to abide further order herein.

And it is further ordered that the parties proceed to the trial of an issue in the High Court of Justice, in which the said claimant shall be the plaintiff and the said execution creditor shall be the defendant, and that the question to be tried shall be whether at the time of the seizure and sale by the sheriff the goods seized were the property of the claimant as against the execution creditor.

And it is further ordered that this issue be prepared and delivered by the plaintiff therein within from this date, and be returned by the defendant therein within days, and be tried at

And it is further ordered that the question of costs and all further questions be reserved until after the trial of the said issue, and that no action shall be brought against the said sheriff for the seizure of the said goods.

Dated the day of 18 .

No. 142. *Interpleader Order, No. 4.*

In the High Court of Justice,
— Division.

[*Name of the Judge or Master*] in Chambers.

Between		Plaintiff,
	and	
		Defendant,
	and between	
		Claimant,
and the said	execution creditor, and	
the sheriff of		Respondents.

Upon hearing , and upon reading the affidavit of filed the day of 18 , and

It is ordered that upon payment of the sum of \$ into Court by the said claimant within from this date, or upon his giving within the same time security to the satisfaction of

for the payment of the same amount by the said claimant according to the directions of any order to be made herein, and upon payment to the above-named sheriff of the possession money from this date, the said sheriff do withdraw from the possession of the goods seized by him under the writ of fieri facias herein.

And it is further ordered that unless such payment be made or security given within the time aforesaid the said sheriff proceed to sell the said goods, and pay the proceeds of the sale, after deducting the expenses thereof and the possession money from this date, into Court in the cause, to abide further order herein.

And it is further ordered that the parties proceed to the trial of an issue in the High Court of Justice, in which the claimant shall be plaintiff and the execution creditor shall be defendant, and that the question to be tried shall be whether at the time of seizure and sale by the sheriff the goods seized were the property of the claimant as against the execution creditor.

And it is further ordered that this issue be prepared and delivered by the plaintiff therein within from this date, and be returned by the defendant therein within days, and be tried at

And it is further ordered that the question of costs and all further questions be reserved until after the trial of the said issue, and that no action shall be brought against the sheriff for the seizure of the said goods.

Dated the day of 18 .
No. 143.

No. 143.

Interpleader Order, No. 5.

**In the High Court of Justice,
—— Division.**

[Name of the Judge or Master] in Chambers.

Between and Plaintiff,
 and between Defendant,

and the said execution creditor, and Claimant,
the sheriff of Respondents.

Upon hearing and upon reading the affidavit of filed the
day of 18 , and

It is ordered that upon payment of the sum of \$ into court by the said claimant, or upon his giving security to the satisfaction of for the payment of the same amount by the claimant according to the directions of any order to be made herein, the above-named sheriff withdraw from the possession of the goods seized by him under the writ of fieri facias issued herein.

And it is further ordered that in the meantime, and until such payment made or security given, the sheriff continue in possession of the goods, and the claimant pay possession money for the time he so continues, unless the claimant desires the goods to be sold by the sheriff, in which case the sheriff is to sell them and pay the proceeds of the sale, after deducting the expenses thereof and the possession money from this date, into Court in the cause, to abide further order herein.

And it is further ordered that the parties proceed to the trial of an issue in the High Court of Justice, in which the claimant shall be plaintiff and the execution creditor shall be defendant, and that the question to be tried shall be whether at the time of the delivery of the said writ to the sheriff the goods seized were the property of the claimant as against the execution creditor.

And it is further ordered that this issue be prepared and delivered by the plaintiff therein within _____ from this date, and be returned by the defendant therein within _____ days, and be tried at _____.

And it is further ordered that the question of costs and all further questions be reserved until after the trial of the said issue, and that no action shall be brought against the sheriff for the seizure of the said goods.

Dated the day of 18 .

No. 144.

Interpleader Order, No. 6.

**In the High Court of Justice,
— Division.**

[Name of the Judge or Master] in Chambers.

Between Plaintiff,
and
and between Defendant,
Claimant
and the said execution creditor and
the sheriff of Respondents.
The

The claimant and the execution creditor having requested and consented that the merits of the claim made by the claimant be disposed of and determined in a summary manner, now upon hearing and upon reading the affidavit of filed the day of 18 , and

It is ordered that

And that the costs of this application be

Dated the day of 18 .

No. 145.

Interpleader Order, No. 7.

In the High Court of Justice,
Division.

[Name of the Judge or Master] in Chambers.

Between

Plaintiff,

and

Defendant,

and between

Claimant,

and the said
the sheriff of

execution creditor and

Respondents.

Upon hearing , and upon reading the affidavit of filed
the day of 18 , and

It is ordered that the above-named sheriff proceed to sell enough of the goods seized under the writ of fieri facias issued in this action to satisfy the expenses of the said sale, the rent (if any) due, the claim of the claimant, and this execution.

And it is further ordered that out of the proceeds of the said sale, (after deducting the expenses thereof, and rent, if any,) the said sheriff pay to the claimant the amount of his said claim, and to the execution creditor the amount of his execution, and the residue, if any, to the defendant.

And it is further ordered that no action be brought against the said sheriff, and that the costs of this application be

Dated the day of 18 .

No. 146.

Order dismissing Motion (Generally).

In the High Court of Justice,
Division.

[Name of the Judge or Master] in Chambers.

Between

Plaintiff,

and

Defendant.

Upon hearing , and upon reading the affidavit of filed
the day of 18 , and

It is ordered that the application of be dismissed, (if the dismissal is with costs add), with costs to be taxed and paid by the to the

Dated the day of 18 .

APPENDIX (I).

FORMS OF JUDGMENT.

No. 147. *Default of Appearance or Defence in case of Liquidated Demand.*

In the High Court of Justice,
 _____ Division.

Between A. B., Plaintiff,
 and
 C. D. and E. F., Defendants.

The day of 18 .

The defendants [or the defendant C. D.] not having appeared herein [or not having delivered any statement of defence], it is this day adjudged that the plaintiff recover against the said defendant \$, and costs to be taxed.

No. 148. *Judgment in Default of Appearance or Defence where the Demand is Liquidated (Fixed costs).*

[Title, &c.]

The day of , 18 .

The defendant not having (appeared to the writ of summons or delivered any statement of defence or demurrer) it is this day adjudged that the plaintiff recover against the said defendant \$ and \$ costs.

No. 149. *Judgment in Default of Appearance in action for Recovery of Land.*

[Title, &c.]

The day of 18 .

No appearance having been entered to the writ of summons herein, it is this day adjudged that the plaintiff recover possession of the land in the said writ mentioned.

No. 150. *Judgment in Default of Defence in action for Recovery of Land.*

[Title, &c.]

The day of , 18 .

No statement of defence having been delivered herein, it is this day adjudged that the plaintiff recover possession of the land in the statement of claim herein mentioned and described as

No. 151.

No. 151. *Judgment in Default of Defence in Action for Recovery of Land with Damages.*

[Title, &c.]

The day of , 18 .

The defendant not having delivered any statement of defence, it is this day adjudged that the plaintiffs recover possession of the land in the statement of claim herein mentioned, and described as , in the County of , and costs to be taxed, and it is further adjudged that the plaintiffs recover against the defendant damages to be assessed.

Certificate for \$, taxed costs, dated the day of , 18 .

No. 152. *Interlocutory Judgment in Default of Appearance or Defence where Demand Unliquidated.*

[Title, &c.]

The day of 18 .

No appearance having been entered to the writ of summons (or no statement of defence or demurrer having been delivered by the defendant) herein;

It is this day adjudged that the plaintiff recover against the defendant the value of the goods or damages, or both, as the case may be, to be assessed.

No. 153. *Judgment after Appearance and Order under Order X., Rule 1.*

[Title, &c.]

The day of 18 .

The defendant having appeared to the writ of summons herein, and the plaintiff having by the order of , dated day of 18 , obtained leave to sign judgment under the Rule of the Supreme Court, No. 80, for (recite order). It is this day adjudged that the plaintiff recover against the defendant \$ and costs to be taxed.

The above costs have been taxed and allowed at \$, as appears by a Master's Certificate dated the day of 18 .

No. 154. *Judgment in Default of Appearance or Defence, after Assessment of Damages.*

[Title, &c.]

The day of , 18 .

No appearance having been entered to the writ of summons [or no statement of defence or demurrer having been delivered by the defendant] herein, and the damages which the plaintiff was entitled to recover having been assessed at \$, as by dated the 18 , appears, it is adjudged that the plaintiff recover \$ and costs to be taxed.

O

No. 155.

No. 155. *Judgment after Trial by Court without Jury.*
(No. 1.)

[Title, &c.]

The day of 18 .
This action having on the day of 18 , been tried before
and the said on the day of 18 , having ordered
that judgment be entered for the for \$.
It is this day adjudged that the recover from the \$.
and costs to be taxed.

The above costs have been taxed and allowed at \$, as appears by
a taxing officer's Certificate dated the day of 18 .

No. 156. *Judgment at Trial by Judge without a Jury.*
(No. 2.)

[Title, &c.]

The day of , 18 .

The action coming on for trial [the day of and]
this day, before in the presence of counsel for the plain-
tiff and the defendants [or, if some of the defendants do not appear, for
the plaintiff and the defendant C. D., no one appearing for the defend-
ants E. F. and G. H., although they were duly served with notice of trial
as by the affidavit of filed the day of appears,]
upon hearing read the pleadings and what was alleged by counsel on
both sides, this Court doth declare, &c.

And this Court doth order and adjudge, &c.

No. 157. *Judgment after Trial by a Jury.*

[Title, &c.]

The day of , 18 .

The action having on the 12th and 18th November, 18 , been tried
before the Honourable Mr. Justice and a special jury of the
county of , and the jury having found [*state findings as in
Judge's or officer's certificate*], and the said Mr. Justice having
ordered that judgment be entered for the plaintiff for \$ and costs of
suit [*or as the case may be*]: Therefore it is adjudged that the plaintiff
recover against the defendant \$ and \$ for his costs of
suit [*or that the plaintiff recover nothing against the defendant, and
that the defendant recover against the plaintiff \$ for his costs of
defence, or as the case may be.*]

No. 158. *Judgment after Trial before Referee.*

[Title, &c.]

The day of , 18 .

The action having on the 27th November, 18 , been tried before X. Y.,
Esq., an official [*or special*] referee; and the said X. Y., having found
[*state substance of referee's certificate*], it is this day adjudged that

No. 159.

No. 159. *Judgment after Trial of Questions of Account by Referee.*

[Title, &c.]

The day of 18 .

The questions of account in this action having been referred to

and he having found that there is due from the to the the sum of \$ and directed that the do pay the costs of the reference.

It is this day adjudged that the recover against the said \$ and costs to be taxed.

The above costs have been taxed and allowed at \$, as appears by a taxing officer's Certificate dated the day of 18 .

No. 160. *Judgment on Motion Generally.*

[Title, &c.]

The day of 18 . (Date of order of Court.)

This action having on the day of 18 come on before the Court on motion for judgment on behalf of the , and the Court after hearing counsel for the having ordered that (as in order of Court.)

It is this day adjudged that the recover against the the sum of \$ and costs to be taxed.

The above costs have been taxed and allowed at \$, as appears by a taxing officer's Certificate dated the day of 18 .

No. 161. *Judgment in pursuance of order. (For use where leave had been given to sign judgment unless some condition should be complied with.)*

[Title, &c.]

The \ day of 18 .

Pursuant to the order of dated 18 whereby it was ordered and default having been made

It is this day adjudged that the plaintiff recover against the said defendant \$ and costs to be taxed.

The above costs have been taxed and allowed at \$, as appears by a taxing officer's Certificate dated the day of 18 .

No. 162. *Judgment in pursuance of order. (For use where leave has been given to sign judgment unless money should be paid into Court.)*

[Title, &c.]

The day of 18 .

Pursuant to the order of dated the day of 18 , whereby it was ordered that unless \$ be paid into court by the defendant within a week, the plaintiff be at liberty to sign final judgment for amount indorsed on the writ of summons with interest, if any, and costs; and the said defendant not having paid into court the said sum of \$, as conditioned by the said order, it is this day adjudged that the plaintiff recover against the defendant \$ and \$ for costs.

Certificate for costs dated the day of 18 .

No. 163.

No. 163. *Judgment on Certificate of Clerk of County Court.*

[Title, &c.]

The day of 18 .

This action having been ordered to be tried in the County Court of
and the Clerk of that Court having certified that the result was

It is this day adjudged that recover against \$ and
costs to be taxed.

The above costs have been taxed and allowed at \$, as appears by
a taxing officer's Certificate dated the day of 18 .

No. 164. *Judgment for Defendant's Costs on Discontinuance.*

[Title, &c.]

The day of 18 .

The plaintiff having by a notice in writing dated the day of
18 , wholly discontinued this action, [or withdrawn his
claim in this action for or withdrawn so much of his claim in this
action as relates to—or as the case may be.]

It is this day adjudged that the defendant recover against the plaintiff
costs to be taxed.

The above costs have been taxed and allowed at \$, as appears by
a taxing officer's Certificate dated the day of 18 .

No. 165.*Judgment for Plaintiff's Costs after Confession of Defence.*

[Title, &c.]

The day of 18 .

The defendant in his statement of defence herein having alleged a
ground of defence which arose after the commencement of this action,
and the plaintiff having on the day of 18 delivered a
confession of that defence.

It is this day adjudged that the plaintiff recover against the defendant
costs to be taxed.

The above costs have been taxed and allowed at \$, as appears by
a taxing officer's Certificate dated the day of 18 .

No. 166.*Judgment for Costs after Acceptance of Money paid into Court.*

[Title, &c.]

The day of 18 .

The defendant having paid into court in this action the sum of \$
in satisfaction of the plaintiff's claim, and the plaintiff having by his notice
dated the day of 18 , accepted that sum in satisfaction of
his

his entire cause of action, and the plaintiff's costs herein having been taxed, and the defendant not having paid the same within 48 hours after the said taxation ;

It is this day adjudged that the plaintiff recover against the defendant costs to be taxed.

The above costs have been taxed and allowed at \$, as appears by a taxing officer's Certificate dated the day of 18 .

No. 167. *Judgment on Motion after Trial of Issue.*

[Title, &c.]

The day of 18 . (*Date of order of Court.*)

The (Issues or Questions) of fact arising in this action by the order dated the day of ordered to be tried before having on the day of been tried before , and the having found , Now on motion before the Court for judgment on behalf of the , the Court having

It is this day adjudged that the recover against the the sum of \$ and costs to be taxed.

The above costs have been taxed and allowed at \$, as appears by a taxing officer's Certificate dated the day of 18 .

No. 168. *Form of Judgment on Præcipe for Sale or Foreclosure WITH REFERENCE AS TO INCUMBRANCES, &c., and orders for Immediate Payment and Delivery of Possession.*

[Title, &c.]

1. Upon the application of the plaintiff under Rule No. 78, of the rules of the Supreme Court, and upon reading the writ of summons issued in this action, and indorsed under Rule No. 17, and an affidavit of, &c., filed, &c., and an affidavit of, &c., filed, &c., of service of the said writ on the defendant, and no appearance having been entered in the said action as by the (books in the office of the at) appears ;

2. It is ordered that all necessary inquiries be made, accounts taken, costs taxed, and proceedings had for redemption or sale (or redemption or foreclosure), and that for these purposes the cause be referred to the Master of this Court at

3. (*Where judgment is for immediate payment add,* It is further ordered that the defendant do forthwith after the making of the Master's report pay to the plaintiff what shall be found due to him for principal money, interest and costs at the date of the said report, and upon payment of the amount due to him (*where judgment is for sale add,* before the sale hereinbefore directed shall have taken place) that the plaintiff do assign and convey the mortgaged premises, and deliver up all documents relating thereto.)

4. (*Where judgment is for immediate possession add,* It is further ordered that the defendant do forthwith deliver to the plaintiff, or to whom he may appoint, possession of the lands and premises in question, in this cause, or of such part thereof as may be in the possession of the said defendant.)

No. 169.

No. 169. *Form of Judgment for Foreclosure or Sale, ACCOUNT TAKEN BY REGISTRAR, and Orders for Immediate Payment and Delivery of Possession.*

[Title, &c.]

1. Upon the application of the plaintiff under Rule No 78, of the rules of the Supreme Court, and upon reading the writ of summons issued in this action, and indorsed under Rule No. 17, and an affidavit of, &c., filed, &c., and an affidavit of, &c., filed, &c., of service of the said writ on the defendant, and no appearance having been entered in the said action as by the (books in the office of the at) appears ;

2. This Court finds that the subsequent interest at the rate of per centum per annum on the sum of principal money secured by the indenture of mortgage in the pleadings mentioned, up to the day of next, being the time appointed for payment as hereinafter mentioned, amounts to and that the costs of the plaintiff amount to which said subsequent interest and costs being added to the sum of claimed by the indorsement on the writ served on the defendant make together the sum of

3. And upon the said defendant paying the said sum of into the bank at the between the hours of ten o'clock in the forenoon and one o'clock in the afternoon of the day of next, to the joint credit of the plaintiff and the Registrar [*where order for payment granted insert, or in case the plaintiff shall (where judgment is for sale add, before the sale hereinafter directed shall have taken place)* recover the amount due to him under the order for payment hereinafter contained], it is ordered that the said plaintiff do assign and convey the mortgaged premises, and deliver up all documents relating thereto ;

4. But in default of the said defendant making such payment by the time aforesaid, it is ordered (*where judgment is for foreclosure, after "it is ordered," say "that the said defendant do stand absolutely debarred and foreclosed, of and from all equity of redemption in and to the said premises ;" where judgment is for sale, then after the words "it is ordered," say "that the said premises be sold, with the approbation of the Master of this Court at)*).

5. (*If judgment is for foreclosure omit this section.*) And it is ordered that the purchasers do pay their purchase money into Court, to the credit of this cause, and that the same when so paid in be applied in payment of what has been found due to the said plaintiff together with subsequent interest and subsequent costs, to be computed and taxed by the said Master, and that the balance do abide the further order of the Court.

6. (*Where judgment is for immediate payment add :*) It is further ordered that the defendant do forthwith pay to the plaintiff the sum of being the amount due to the plaintiff at the date hereof for principal money, interest and costs.

7. (*Where judgment is for immediate possession add :*) And it is further ordered that the defendant do forthwith deliver to the plaintiff , or to whom he may appoint, possession of the mortgaged premises, or of such part thereof as may be in the possession of the said defendant .

No. 170. *Form of Judgment for Redemption, issued by a local Master.*

[Title, &c.]

1. Upon the application of the plaintiff, under Rule No. 78, of the rules of the Supreme Court, and upon reading the writ of summons issued in this action, and indorsed under Rule No. 16, and an affidavit of, &c., filed, &c., and an affidavit of, &c., filed, &c., of service of the said writ on the defendant, and no appearance having been entered in the said action, as by the (books in the office of the at) appears ;

2. It is ordered that all necessary inquiries be made, accounts taken, costs taxed, and proceedings had for the redemption of the premises in question, and that for this purpose the cause be referred to the Master at

3. And it is ordered that upon the plaintiff paying to the defendant what shall be found due to him, or in case nothing shall be found due to the defendant then forthwith after the confirmation of the said Master's report, that the defendant do reconvey the said mortgaged premises, and deliver up all documents relating thereto.

4. It is further ordered that in case the plaintiff shall make default in payment as aforesaid of what may be found due to the defendant that the plaintiff's action do stand dismissed out of this Court, with costs to be paid by the plaintiff to the defendant forthwith after taxation thereof.

5. It is further ordered that in case nothing shall be found due from the plaintiff to the defendant that the defendant do pay the plaintiff his costs of this suit forthwith after taxation thereof, and in case any balance shall be found due from the defendant to the plaintiff that the defendant do pay such balance to the plaintiff forthwith after the confirmation of the Master's report.

No. 171. *Form of Judgment for Administration by a Local Master.*

1. Upon the application of the above-named plaintiff in the presence of the solicitor for the defendant [or no one appearing for the defendant although duly notified as by affidavit filed appears], and upon hearing read the affidavits and papers filed, and what was alleged by the solicitor for [the applicant or all parties].

2. It is ordered that all necessary inquiries be made, accounts taken, costs taxed and proceedings had for the administration and final winding up of the personal [and real] estate of and for the adjustment of the rights of all parties interested therein, by the Master of this Court at

3. And it is ordered that all balances which may be found due from the plaintiff or defendant [or any or either of them] to the said estate be, forthwith after the same shall have been ascertained as aforesaid, paid into Court to the credit of this cause, subject to the further order of the Court.

4. And it is ordered that such personal [and real] estate, or such parts thereof as the said Master may hereafter direct, be sold, as the said Master may direct, and that the purchasers do pay their purchase money into Court to the credit of this cause, subject to the order of the Court.

5. It is further ordered that the Master do execute conveyances for any infant parties who by reason of their tender years are unable to execute the same.

No. 172. *Form of Judgment for Partition or Sale by a County Court Judge or a Local Master.*

1. Upon the application of the above-named plaintiff in the presence of the solicitor for the defendant [or no one appearing for the defendant although duly notified as by affidavit filed appears] and upon hearing read the affidavits and papers filed, and what was alleged by the solicitor for [the applicant or all parties.]

2. It is ordered that all necessary inquiries be made, accounts taken, costs taxed and proceedings had for the partition or sale of the lands and premises in the said affidavits mentioned, and for the adjustment of the rights

rights of all parties interested therein, or for a partition of part and sale of the remainder of the said lands as may be most for the interest of the parties entitled to share therein [by the Master of this Court at _____].

3. And it is further ordered that the said lands, or such part thereof as the said Master shall think fit, be sold, with the approbation of the said Master, freed from the claims of such of the incumbrancers thereon (if any) whose claims were created by parties entitled to the said lands before the death of the said testator [or, intestate] as shall have consented to such sale, and subject to the claims of such of them as shall not have consented [and freed also from the dower of *as the case may be*], and that the said Master do execute the conveyances on behalf of such of the infant parties as, by reason of their tender years, are unable to execute the same, and that the purchasers do pay their purchase money into Court to the credit of this cause, subject to the order of the Court.

4. And it is further ordered that, in the event of a partition of the whole of the said land, or in the event of a partition of a part and the proceeds of the sale of the remainder being insufficient to pay the costs in full, the costs, or so much thereof as remains unpaid, be borne and paid by the said parties according to their shares and interests in the said lands [if there be any infant parties interested in the estate add] and that the proportion of the said costs payable by the infant parties respectively be, and the same is hereby declared to be, a lien on their respective shares, and that the plaintiff do pay the guardian of the infant defendants his costs of this suit and that the same be added to his own costs.

No. 173.

Certificate of Taxation.

[Title, &c.]

I certify that the costs of the _____ have been taxed and allowed at \$ _____

Dated &c.

No. 174.

Form of Certificate of Officer after Trial by a Jury.

Title, &c.]

I certify that this action was tried before the Honourable Mr. Justice
and a special jury of the county of _____ on the
and _____ days of (October,) 188 ____.

The Jury found [state findings].

(If the Judge gives instructions as to the judgment thereon, add), And the said Judge directed, &c., [as the case may be.]

Dated, &c.

APPENDIX (J).

No. 175.

WRITS OF EXECUTION.

Writ of Fieri Facias.

In the High Court of Justice,
 ——— Division.

Between A. B., Plaintiff,
 and
 C. D. and others, Defendants.

Victoria, by the Grace of God, of the United Kingdom of Great Britain
 and Ireland, Queen, Defender of the Faith.

To the sheriff of greeting.

We command you that of the goods and chattels (or lands and tenements)
 of C. D. in your bailiwick you cause to be made the sum of \$
 and also interest thereon from the day of

[*Day of the judgment or order, or day on which money
 directed to be paid, or day from which interest is directed by the order to run,
 as the case may be,*] which said sum of money and interest were lately be-
 fore the Justices of our High Court of Justice in a certain action [or certain
 actions, as the case may be] wherein A. B. is plaintiff, and C. D. and others
 are defendants [or in a certain matter there depending intituled "In the
 matter of E. F.," as the case may be] by a judgment [or order as the case
 may be] of our said Court, bearing date the day of
 adjudged [or ordered, as the case may be] to be paid by the said C. D. to
 A. B., together with certain costs in the said judgment [or order as the
 case may be] mentioned, and which costs have been taxed and allowed
 (by one of the taxing masters of our said Court) at the sum of
 \$ as appears by the certificate of the said taxing master, dated
 the day . And that of the goods and
 chattels (or lands or tenements) of the said C. D. in your bailiwick you
 further cause to be made the said sum of \$ [costs], together with
 interest thereon from the day of , (*the date of
 the certificate of taxation. The writ must be so moulded as to follow
 the substance of the judgment or order*) and that you have that money
 and interest before our Justices aforesaid at Toronto immediately after
 the execution hereof, (or, in the case of lands and tenements, immediately
 after the expiration of twelve months from the day of your receipt hereof)
 to be paid to the said A. B. in pursuance of the said judgment [or order
 as the case may be]. And in what manner you shall have executed this
 our writ make appear to our Justices aforesaid at Toronto immediately
 after the execution thereof. And have there then this writ.

Witness, the Honourable President, &c.

The day of 18 .

No. 176.

No. 176.

FIERI FACIAS ON ORDER FOR COSTS.

[Title, &c.]

Victoria, &c.

To the sheriff of greeting.

We command you that of the goods and chattels of in your bailiwick you cause to be made the sum of for certain costs which by an order of our High Court of Justice dated the day of 18 , were ordered to be paid by the said to and which have been taxed and allowed at the said sum, and interest on the said sum at the rate of 6 per centum per annum from the day of 18 , and that you have the said sum and interest before the Justices of our High Court at Toronto, immediately after the execution hereof, to be rendered to the said . And in what manner you shall have executed this our writ make appear to us immediately after the execution hereof. And have there then this writ.

Witness, &c.

The day of 18 .

Indorsements.

Levy \$ and \$ for costs of execution, &c., and also interest on \$ at 6 per centum per annum from the day of 18 , until payment; besides sheriff's poundage, officers' fees, costs of levying, and all other legal incidental expenses.

This writ was issued by

of agent for of solicitor for the .

The is a and resides at in your bailiwick.

No. 177.

Writ of Venditioni Exponas.

[Title, &c.]

Victoria, &c.

To the sheriff of greeting.

Whereas by our writ we lately commanded you that of the goods and chattels (*making the necessary variations of this form throughout in the case of lands and tenements*) of *C. D.* [*here recite the fieri facias to the end*]. And on the day of you returned to our Justices in the Division of our High Court of Justice aforesaid, that by virtue of the said writ to you directed you had taken goods and chattels of the said *C. D.* to the value of the money and interest aforesaid, which said goods and chattels remained in your hands unsold for want of buyers. Therefore, we being desirous that the said *A. B.* should be satisfied his money and interest aforesaid, command you that you expose to sale and sell, or cause to be sold, the goods and chattels of the said *C. D.*, by you in form aforesaid taken, and every part thereof, for the best price that can be gotten for the same, and have the money arising from such sale before our Justices aforesaid, at immediately after the execution hereof, to be paid to the said *A. B.* And have there then this writ.

Witness, &c., , the day of 18 .

No. 178.

Writ of Possession.

[Title, &c.]

Victoria, &c.,

to the sheriff of

, greeting.

Whereas lately in our High Court of Justice, by a judgment of the

Division of the same Court [A. B. recovered] or [E. F. was ordered to deliver to A. B.] possession of all that with the appurtenances in your bailiwick : Therefore, we command you that you enter the same, and without delay cause the said A. B. to have possession of the said land and premises with the appurtenances, and that you defend and keep him and his assigns in peaceable and quiet possession when and as often as any interruption may or shall, from time to time, be given or offered to them or any of them. Witness, etc.

No. 179.

Writ of Delivery.

[Title, &c.]

Victoria, &c.,

to the sheriff of

greeting : We command you, that without delay you cause the following chattels, that is to say [*here enumerate the chattels recovered by the judgment for the return of which execution has been ordered to issue*], to be returned to A. B., which the said A. B. lately in our recovered against C. D. [or C. D. was ordered to deliver to the said A. B.] in an action in the Division of our said Court.* And we further command you, that if the said chattels cannot be found in your bailiwick, you distrain the said C. D. by all his lands and chattels in your bailiwick, so that neither the said C. D. nor any one for him do lay hands on the same until the said C. D. render to the said A. B. the said chattels ; and in what manner you shall have executed this our writ make appear to the Justices of the Division of our High Court of Justice at Toronto, immediately after the execution hereof, and have you there then this writ. Witness, etc.

No. 180. *The Like, but instead of a Distress until the Chattel is returned, commanding the Sheriff to levy on the Defendant's goods the assessed Value of it.*

[Proceed as in the preceding form until the*, and then thus :]

And we further command you that if the said chattels cannot be found in your bailiwick, of the goods and chattels of the said C. D. in your bailiwick you cause to be made \$ [the assessed value of the chattels,] and in what manner you shall have executed this our writ make appear to the Judges of the Division of our High Court of Justice at Toronto, immediately after the execution hereof, and have you there then this writ. Witness, etc.

No. 181.

Writ of Attachment.

[Title, &c.]

Victoria, &c.,

To the sheriff of

, greeting :

We command you to attach C. D. so as to have him before us in the Division of our High Court of Justice there to answer to us, as well touching a contempt which he it is alleged hath committed against us, as also such other matters as shall be then and there laid to his charge, and further to perform and abide such order as our said Court shall make in this behalf, and hereof fail not, and bring this writ with you. Witness, etc.

No. 182.

No. 182.

Writ of Sequestration,

[Title, &c.]

Victoria, etc.,

To the sheriff of , greeting :

Whereas lately in the Division of our High Court of Justice in a certain action there depending, wherein *A. B.* is plaintiff and *C. D.* and others are defendants [or, in a certain matter there depending intituled "*In the matter of E. F., as the case may be*" by a judgment [or order as *the case may be*] of our said Court made in the said action [or matter], and bearing date the day of 18, it was ordered that the said *C. D.* should [pay into Court to the credit of the said action the sum of \$; or, as the case may be]. Know ye, therefore, that we have given, and by these presents do give, to you full power and authority to enter upon all the lands, tenements and real estate whatsoever of the said *C. D.*, and to collect, receive and sequester into your hands, not only all the rents and profits of his said lands, tenements and real estate, but also all his goods, chattels and personal estates whatsoever ; and therefore we command you, that you do at certain proper and convenient days and hours, go to and enter upon all the lands, tenements and real estates of the said *C. D.*, and that you do collect, take and get into your hands not only the rents and profits of his said real estate, but also all his goods, chattels, and personal estate, and detain and keep the same under sequestration in your hands until the said *C. D.* shall [pay into Court, to the credit of the said action, the sum of \$ or, as the case may be,] clear his contempt, and our said Court make other order to the contrary. Witness, &c.

No. 183.

Delivery or Assessed Value of Chattels.

[Title, &c.]

Victoria, etc.,

to the sheriff of greeting.

We command you that without delay you cause to be returned to the following chattels, namely (*Enumerate chattels recovered by judgment for the return of which execution has been order to issue.*) which the said lately (recovered against or was ordered to deliver to the said,) in an action in our High Court of Justice.

And we further command you that if the said chattels cannot be found in your bailiwick then of the goods and chattels of the said in your bailiwick you cause to be made, *the assessed value of the chattels*) And in what manner you shall have executed this our writ make appear to us in our said Court immediately after the execution hereof. And have there then this writ.

Witness, &c.

Indorsements.

If the chattels cannot be found in your bailiwick, levy \$ the assessed value thereof, and interest thereon at 6 per centum per annum from the day of 18 until payment, besides sheriff's poundage, officers' fees, costs of levying, and all other legal incidental expenses.

This writ was issued by

of
agent for
of
solicitor to the who reside at

The defendant is a
and resides at
in your bailiwick.

No. 184.

No. 184. *Warrant for arrest of a defaulting witness.*

Province of Ontario. }
 County of }

Between A. B., Plaintiff,
 and
 C. D., Defendant.

To E. F.

Whereas proof has been made before me that *H. N.* was duly subpoenaed to give evidence on behalf of the plaintiff (*or as the case may be*), in the above cause at the sittings of the Court of Assize (*or as the case may be*), at Toronto (*or as the case may be*, which commenced on the day of 18); that the presence of the said *H. N.*, is material to the ends of Justice; and that the said *H. N.* has failed to attend in accordance with the requirements of the subpoena.

These are therefore to command you to take the said *H. N.*, and to bring and have him before me at the said sittings, or before such other Judge as may be presiding thereat, there to testify what he may know concerning the matters in question in the said cause, and that you detain him in your custody until he shall have given his evidence, or until the said sittings shall have ended, or until other order be made by the Court concerning him.

Given under my hand, this day of
 A.D. 18 , at

J. J. M.

CHAPTER 6.

An Act to amend the Jurors' Act of 1879.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Sub-section four of section eleven of the Act passed in the forty-second year of Her Majesty's reign and chaptered fourteen, is hereby amended, by repealing all the words between the word "letter" in the sixth line, and the words, "the selectors" in the seventh line, and substituting the following instead, thereof: "but shall not select from the names of any persons that were written down, and selected from, and returned the preceding year." 42 Vic., c. 14,
s. 11, sub-s. 4
amended.

2. Sub-section two, of section thirteen of the aforesaid Act is hereby amended by adding the following words thereto: "and when the names in any letter have not been exhausted in any one year, the clerk of the municipality shall enter in such book the names and additions of all persons whose names begin with the last mentioned letter that were written down, and selected from, and returned during the then current year." Sec. 13, sub-s. 2,
amended.

3.

Sub-s. 5 of s.
11 to be read
as sub-s. 2 of s.
14.

3. Sub-section five of section eleven of the Jurors' Act of 1879 shall be read and construed as though it were sub-section two of section fourteen of said Act, instead of sub-section five of said section eleven.

Sec. 12 amend-
ed.

4. Section twelve of the Jurors' Act of 1879 is amended by inserting after the word "age," in the the sixth line thereof, the following: "and who is not exempt or disqualified and."

CHAPTER 7.

An Act respecting Interpleader.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

When issue
may be tried
in county
court.

1. When the amount claimed under or by virtue of an execution, or of an attachment against an absconding debtor in the sheriff's or other officer's hands, issued out of one of the superior courts of law, does not exceed the sum of four hundred dollars, exclusive of interest and sheriff's or other officer's costs, or when the goods seized are not, in the opinion of the judge, or other persons making the order, of the value of more than four hundred dollars, the order directing an issue to be tried may direct that the issue shall be drawn up and tried in the county court of the county in which the issue would, under the provisions of section twenty-two of the Interpleader Act, be tried, and in such case the issue shall be drawn up and tried in the county court, and all subsequent proceedings therein, up to and inclusive of judgment and execution, shall be had and taken in the county court, which shall have jurisdiction in the premises as fully as though the writ of execution or attachment had issued out of a county court. When an application is made for an order, under this section; upon the ground that the goods seized are not of the value of more than four hundred dollars, a list of the goods and of the value placed upon them shall be set out in the affidavit, or affidavits, upon which the application is based.

Order for costs
to be made by
judge of
county court.

2. The proceedings for and relating to the order for costs, and for obtaining money out of court, when the same has been paid into court by the sheriff, and for such other purposes as may be necessary, may, in the cases provided for in the foregoing section, be made to the judge of the county court who tried the issue, and he shall have power and authority to make such

such order in the premises as a judge has heretofore had in such cases, but the application for such order may be made as now in the original cause.

3. In respect of all such proceedings as shall under the first section of this Act be had in the county court, the costs and disbursements shall be taxed upon the county court scale. Costs to be on county court scale.

4. This Act shall be read with and form part of chapter fifty-four of the Revised Statutes of Ontario. Act to be read with R. S. O., c. 54.

CHAPTER 8.

An Act to regulate the Fees of certain officers and
ot ..

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. A fee of three dollars shall be payable to the deputy clerk of the Crown for his own use for entering an action for trial at the assizes or sittings, which sum shall be in lieu of the fees now paid in stamps on passing and entering a record with the deputy clerk of the Crown. Fee to deputy clerk of Crown on entering action for trial.

2. The clerks of the county courts (except of the county of York), shall be entitled for services under the Act respecting mortgages and sales of personal property, and the Acts amending the same, to the following fees, in lieu of the fees mentioned for the same services in the twenty-second section of said revised Act: Fee to county court clerks for services under R.S.O., c. 119.

(1) For filing each instrument and affidavit, and for entering the same in a book as in the said revised Act mentioned, fifty cents;

(2) For filing assignment of each instrument, and for making all proper indorsements in connection therewith, fifty cents.

3. There may be paid to gaol surgeons for the examination of each prisoner whom it is proposed to sentence or remove to the Female Reformatory, including certificate, the fee of one dollar; and the tariff of fees established by the Revised Statutes of Ontario, chapter eighty-four, for the services of sheriffs in connection with offenders sentenced or liable to be removed. Fees to gaol surgeons.

removed or sentenced to the Central Prison, shall apply also to offenders sentenced or liable to be removed or sentenced to the said Female Reformatory.

Fees to
Sheriffs.

4. A fee of one dollar shall be allowed to sheriffs under chapter eighty-four of the Revised Statutes of Ontario, Schedule "Sheriffs, item five," and under chapter eighty-six, Revised Statutes of Ontario, Schedule "Sheriffs, item five," for the discharge from gaol of every prisoner convicted by a police or stipendiary magistrate under thirty-eighth Victoria, chapter forty-seven, Statutes of Canada.

CHAPTER 9.

An Act to make provision for the Administration of Justice in the County of Dufferin.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS by the Act passed in the thirty-eighth year of Her Majesty's reign, chapter thirty-one, and the Act passed in the forty-third year of Her Majesty's reign, chapter thirty-seven, provision was made for the formation of certain territory within the limits of the counties of Wellington, Grey and Simcoe into a new county by the name of the county of Dufferin; and whereas a proclamation was duly issued by the Lieutenant-Governor in Council declaring the said territory to be formed into a new county upon and from the twenty-fourth day of January, in the year of our Lord one thousand eight hundred and eighty-one, as authorized by the said Acts; and whereas it is expedient to make further provision for the administration of justice in the said county;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts follows:—

Number and
limits of Division
Courts.

1. The following shall form and constitute the number and limits of the different division courts of the said county of Dufferin, until such division courts or the limits thereof shall be altered under the provisions of "The Division Courts Act."

First Division Court: The town of Orangeville, the township of East Garafraxa, and all that portion of the township of Amaranth lying south of the southerly boundary of lot number twenty-six in each concession of the township of Amaranth.

Second Division Court: The village of Shelburne, the township of Melancthon, and all that portion of the township of Amaranth lying north of the southerly boundary of lot number

ber twenty-six in each concession of the said township of Amaranth.

Third Division Court: The township of Mulmur.

Fourth Division Court: The township of Mono.

2. The sittings of the Ninth Division Court of the county of Wellington, and the office of the clerk thereof, shall be continued in the town of Orangeville until the judge of the said county shall make an order for the holding thereof in some other place, and until the general sessions of the peace of the county of Wellington otherwise provide under the Division Courts Act. Ninth Division Court of Wellington continued.

3. All suits and proceedings at the time of the coming in force of the said proclamation pending or being in the then Seventh Division Court of the county of Simcoe shall become suits and proceedings of the said Third Division Court of the county of Dufferin, and shall be continued in such Court as if they had been commenced therein. Provision as to suits pending in Seventh Division Court of Simcoe.

4. All suits and proceedings at the time of the coming in force of the said proclamation pending or being in the then Eighth Division Court of the county of Simcoe shall become suits and proceedings of the said Fourth Division Court of the county of Dufferin, and shall be continued in such Court as if they had been commenced therein. Provision as to suits pending in Eighth Division Court of Simcoe.

5. Any writ, process or proceeding in any such suit or proceeding may be served, executed and enforced by the bailiff of the court in which the suit is, and may be so served, executed and enforced in any of the counties of Simcoe, Wellington and Dufferin; and any writ, process or proceeding in any suit at the time of the passing of this Act, pending or being in the Ninth Division Court of the county of Wellington, or the Fifth Division Court of the county of Grey, may be served, executed and enforced by the bailiff of such court within his county, or within the said county of Dufferin. Service of process in pending suits.

6. Any suit or other proceeding which might, and would in due course, have been tried or heard at the sittings of the said Seventh Division Court of the county of Simcoe, which, before the issue of the said proclamation, had been appointed for the sixth day of February, one thousand eight hundred and eighty-one, shall, without further notice to the parties, be tried or heard at the first sittings of the said Third Division Court of the county of Dufferin, and every suit or proceeding which might, and would in due course, have been tried or heard at the sittings of the said Eighth Division Court of the county of Simcoe, appointed for the fifth day of February aforesaid, shall, without further notice to the parties, be tried or heard at the first sittings of the said Fourth Division Court of the county of Dufferin: Provided always that in any case the judge may, Hearing of suits in Seventh and Eighth Division Courts of Simcoe.
P where

where he considers the interests of justice require, adjourn the trial or hearing, or grant a new trial, in the same manner as he could do if such suit or proceeding had been originally commenced in the Court to which it is transferred under this Act.

Delivery of papers by clerks and bailiffs.

7. Any person who at the said time held the office of clerk or bailiff of either of the said Seventh and Eighth Division Courts of the county of Simcoe in possession of any books, papers, writs or documents appertaining to either of such courts or the business thereof, shall deliver the same to the clerk of the division court of the county of Dufferin to which the suits and proceedings belong under the provisions of this Act.

Clerk of the peace to consolidate jurors' books, &c.

8. The clerk of the peace for the said county of Dufferin upon receiving from the clerks of the peace of the said counties of Wellington, Grey and Simcoe, the jurors' books, jurors' rolls and jurors' lists, as provided by the sixtieth section of the Jurors' Act, shall consolidate the same respectively, and form therewith one jurors' book, jurors' roll, and jurors' list respectively, and the same, when so consolidated, shall form the jurors' book, jurors' roll and jurors' list respectively, for the said county of Dufferin, for the year one thousand eight hundred and eighty-one, subject to the increase of the same, in the manner provided by the fifty-ninth section of the said Jurors' Act.

How writs against lands and goods in the county of Dufferin may be continued in force.

9. No unsatisfied writ against lands or goods in the hands of the sheriff of any of the said counties of Wellington, Grey, or Simcoe on the day the said proclamation came into force, or at the time of the passing of this Act, shall bind lands or goods situate within the limits of the said county of Dufferin, or have any effect upon such lands or goods after one year from the said day, unless the person entitled to the benefit of such unsatisfied writ, before the expiration of the said year, shall have placed a writ against lands or goods (as the case may require), in the hands of the sheriff of the county of Dufferin, indorsed with a notice that priority is claimed by virtue of this Act, in which case his writ, in the hands of such first mentioned sheriff, if it at the said time did bind lands or goods within the county of Dufferin, shall continue to bind such lands or goods, and shall retain its priority so long as such indorsed writ remains in force: Provided that such person shall not in the meantime have permitted his writ in the hands of the said sheriff of Wellington, Grey or Simcoe to expire, or shall not have otherwise lost his priority.

What writs may be executed in Dufferin by sheriffs of Simcoe, Grey and Wellington.

10. The thirteenth section of the said Act passed in the forty-third year of Her Majesty's reign shall not be held to authorize the sheriff of any of the said counties of Wellington, Grey or Simcoe to execute within the county of Dufferin any writ which does not depend for its priority upon a former writ executed by him, and which was not in his hands at the time of the passing of this Act.

11.

11. The treasurer of each of the said counties of Wellington, Grey and Simcoe shall, upon being requested so to do, deliver to the treasurer of the said county of Dufferin the books relating to the townships and villages within the said county of Dufferin, required to be kept by such treasurers, under the provisions of section one hundred and twenty of the Assessment Act.

Delivery of books to treasurer of Dufferin.

12. The head and members of the provisional council, and the officers, by-laws, contracts, property, assets and liabilities of the provisional corporation shall be held to have become from the day named in the proclamation for the said provisional county becoming a county, the head and members of the council, and the officers, by-laws, contracts, property, assets and liabilities of the new corporation, and the provisions of any law in force in this province, in any wise affecting or relating to the proceedings consequent upon the dissolution of union of counties, shall be held to apply, so far as applicable, to the separation of the town and townships aforesaid from the respective counties of which they theretofore formed part, and the erection thereof into a new county, unless when different provision is made by the said recited Acts or this Act.

Council, officers and property of provisional corporation to be those of new corporation.

13. In order to apply such provisions, the portions of territory detached from each of the counties of Wellington, Grey and Simcoe, wherever this is necessary to give any such provisions proper effect, shall, as respects the county from which such portion was detached, be regarded as a junior county; and each of the said counties, as to the portion of territory detached from it, shall be regarded as a senior county; but in other cases, the provisions of law respecting junior counties, and the proceedings to be taken in any such county upon its separation from a senior county, and the powers and duties of the courts, justices, officers and council thereof, shall be held to apply to the whole of the said county of Dufferin, and to the courts, justices, officers and council thereof, unless where different provision is made as aforesaid.

Portion of counties detached to be regarded as junior counties so far as required to give effect to provisions for dissolution of counties.

14. No chattel mortgage which, (or a copy of which,) had before the said proclamation came into force, been duly registered in the office of the clerk of the county court of either of the counties of Wellington, Grey or Simcoe, shall require to be, or be held to have required to have been, again registered in the office of the clerk of the county court of the county of Dufferin, by reason of the separation of any part of the territory forming such new county from the county to which it formerly belonged, or of the formation of such new county; but in the event of the permanent removal of goods and chattels mortgaged out of the former limits of the county in which the mortgage is registered into another portion of the county of Dufferin, before the payment and discharge of the mortgage, a certified copy of such mortgage, under the hand of the clerk of the county court in whose office

Provisions as to registration of chattel mortgages.

office it was first registered, and under the seal of the said court, and of the affidavits and documents and instruments relating thereto filed in such office, shall be filed with the clerk of the county court of the county of Dufferin within two months from such removal, or within two months after the passing of this Act, otherwise the said goods and chattels shall be liable to seizure and sale under execution, and in such case the mortgage shall be null and void as against subsequent purchasers and mortgagees in good faith for valuable consideration, as if never executed.

Statement for purpose of renewal of mortgage to be filed with clerk of county court of Dufferin.

15. Where any goods and chattels subject to a chattel mortgage which (or a copy of which,) has been duly registered in the office of the clerk of the county court of either of the counties of Wellington, Grey or Simcoe are within the county of Dufferin, at the time that such mortgage requires renewal in the manner provided by the second section of the Act passed in the forty-third year of Her Majesty's reign, intituled "An Act to amend the Revised Statute respecting mortgages and sales of personal property," in order to keep the same in force against the creditors of the persons making the same, the statement, affidavit and other documents required by the said second section, and also a certified copy of such mortgage, under the hand of the clerk of the county court in whose office it was first registered, shall be filed with the clerk of the county court of the county of Dufferin; and in case the same are not so filed with such clerk within thirty days next preceding the expiration of the term of one year from the filing thereof, or the filing of the last statement and affidavit under the said section, such mortgage shall cease to be valid as against the creditors of the persons making the same, and against subsequent purchasers and mortgagees in good faith for valuable consideration; and it shall not be necessary, in order to keep such chattel mortgage in force as aforesaid, in respect of any goods or chattels in the said county of Dufferin, that any statement, affidavit or document should be filed in the office of the clerk of the peace of any other county.

CHAPTER 10.

An Act to amend the Registry Act.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

R. S. O., c. 111, s. 69, amended. Discharge of 1. Section sixty-nine of the Registry Act, chapter one hundred and eleven of the Revised Statutes, is hereby amended by striking out the words "and executed as hereinafter mentioned" in

in the fifth line of the said section, and by adding at the end thereof the following: "and it shall not be necessary to the validity of any such certificate of discharge of mortgage given by a married woman that the husband of such married woman should be a party to or should execute the same; and it is hereby declared that any discharge of mortgage heretofore executed by a married woman alone (and duly registered) shall be as effectual to discharge such mortgage and to reconvey all the estate of such married woman in the mortgaged lands as if the same had been executed by the husband and wife conjointly."

mortgage by
married
woman.

CHAPTER 11.

An Act for Protecting the Public Interest in Rivers, Streams and Creeks.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. So far as the Legislature of Ontario has authority so to enact, all persons shall, subject to the provisions in this Act contained, have, and are hereby declared always to have had, during the spring, summer and autumn freshets, the right to, and may float and transmit saw-logs and all other timber of every kind, and all rafts and crafts, down all rivers, creeks and streams in respect of which the Legislature of Ontario has authority to give this power; and in case it may be necessary to remove any obstruction from such river, creek or stream, or construct any apron, dam, slide, gate-lock, boom, or other work therein or thereon, necessary to facilitate the floating and transmitting such saw-logs and other timber, rafts or crafts, down the same, then it shall be lawful for the person requiring so to float and transmit such saw-logs and other timber, rafts and crafts, and it is hereby declared always to have been lawful, to remove such obstruction, and to construct such apron, dam, slide, gate-lock, boom, or other work necessary for the purposes aforesaid, doing no unnecessary damage to the said river, creek or stream, or to the banks thereof.

All persons
entitled to use
rivers for float-
ing down tim-
ber and saw-
logs.

2. In case any person shall construct in or upon such river, creek or stream, any apron, dam, slide, gate-lock, boom or other work, necessary to facilitate the floating or transmission of saw-logs or other timber, rafts or crafts, down any such river, creek or stream, which was not navigable or floatable before such improvements were made, or shall blast rocks, or remove shoals or other impediments, or otherwise improve the float-ability

Right to use
river on which
improvements
have been
made for the
purpose of
floating down
timber.

ability of such river, creek, or stream, such person shall not have the exclusive right to the use of such river, creek or stream, or to such constructions and improvements; but all persons shall have, during the spring, summer and autumn freshets, the right to float and transmit saw-logs and other timber, rafts and crafts, down all such rivers, creeks or streams, and through and over such constructions and improvements, doing no unnecessary damage to the said constructions and improvements, or to the banks of the said rivers, creeks or streams, subject to the payment to the person who has made such constructions and improvements, of reasonable tolls.

Foregoing provisions to apply whether land patented or not.

3. The foregoing sections, and all the rights therein given, and all the provisions therein made and contained, shall extend and apply to all rivers, creeks and streams, mentioned in the first section of this Act, and to all constructions and improvements made therein or thereon, whether the bed of such river, creek or stream, or the land through which the same runs, has been granted by the Crown or not, and if granted by the Crown, shall be binding upon such grantees, their heirs, executors, administrators and assigns.

Lieutenant-Governor in Council may fix tolls.

4. The Lieutenant-Governor in Council may fix the amounts which any person entitled to tolls under this Act shall be at liberty to charge on the saw-logs and different kinds of timber, rafts or crafts, and may from time to time vary the same; and the Lieutenant-Governor in Council, in fixing such tolls shall have regard to, and take into consideration, the original cost of such constructions and improvements, the amount required to maintain the same, and to cover interest upon the original cost, as well as such other matters as under all the circumstances may, to the Lieutenant-Governor in Council, seem just and equitable.

Provisions of Act to apply to all constructions now or hereafter made.

5. The foregoing provisions of this Act shall apply to all such constructions and improvements as may hitherto have been made, as well as to such as may be in course of construction, or shall hereafter be constructed.

Person making improvements to have lien for tolls.

6. Every person entitled to tolls under this Act shall have a lien upon the saw-logs or other timber passing through or over such constructions or improvements, for the amount of such tolls, such lien to rank next after the lien (if any) which the Crown has for dues in respect to such logs or timber, and if such tolls are not paid, any justice of the peace having jurisdiction within or adjoining the locality in which such constructions or improvements are, shall, upon the oath of the owner of such constructions or improvements, or upon the oath of his agent, that the just tolls have not been paid, issue a warrant for the seizure of such logs or timber, or so much thereof as will be sufficient to satisfy the tolls, which warrant shall be directed to any constable, or any person sworn in as a special

special constable for that purpose, at the discretion of the magistrate, and shall authorize the person to whom it is directed, if the tolls are not paid within fourteen days from the date thereof, to sell, subject to the lien of the Crown (if any) for dues, the said logs or timber, and out of the proceeds to pay such tolls, together with the costs of the warrant and sale, rendering the surplus on demand to the owner: Provided always that the authority to issue such warrant by such justice of the peace shall not exist after the expiration of one month from the time of the passage of such logs or timber through or over any of such constructions or improvements.

7. Nothing in this Act contained shall be construed as interfering with the powers or rights of any company formed under the Act respecting Joint Stock Companies, for the construction of works to facilitate the transmission of timber down rivers and streams, being chapter one hundred and fifty-three of the Revised Statutes of Ontario, or with mill-dams, or the right to erect and maintain mill-dams on streams; and the law respecting mills and mill-dams being chapter one hundred and thirteen of the Revised Statutes of Ontario, and any other law conferring rights in mill-dams shall remain the same as if this Act had not been passed.

Rights of companies formed under R. S. O., c. 153, not affected.

8. All persons driving saw-logs, or other timber, rafts or crafts, down any such river, creek or stream, shall have the right to go along the banks of any such river, creek or stream, and to assist the passage of the timber over the same by all means usual amongst lumbermen, doing no unnecessary damage to the banks of the said river, creek or stream.

All persons driving logs, etc., to have the right to go on river banks.

9. Every person entitled to tolls under this Act may make rules and regulations for the purpose of regulating the safe and orderly transmission of saw-logs, timber, rafts and crafts over or through such constructions or improvements, but no such rules or regulations shall have any force or effect until approved of by the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council may revoke and cancel such rules and regulations so made and approved, and from time to time approve of new rules and regulations which the person so entitled to tolls, as aforesaid, shall have the power to make.

Person entitled to tolls may make rules regulating transmission of timber.

10. If any suit is now pending, the result of which will be changed by the passage of this Act, the court or any judge of such court, having authority over such suit, or over the costs, may order the costs of the suit, or any part thereof, to be paid by the party who would have been required to pay such costs if this Act had not been passed.

Costs of pending suits.

CHAPTER 12.

An Act to further amend the Revised Statute respecting Mortgages and Sales of Personal Property.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Yearly statement to be filed or mortgage invalidated.

Another statement in accordance with the provisions of the tenth section of the Revised Statute, chaptered one hundred and nineteen, respecting mortgages and sales of personal property, as amended by the Act passed in the forty-third year of Her Majesty's reign, chapter fifteen, duly verified as required by that section, shall be filed in the office of the clerk of the county court of the county wherein the goods and chattels described in the mortgage are then situate, within thirty days next preceding the expiration of the term of one year from the day of the filing of the statement required by the said tenth section, or such mortgage, or copy thereof, shall cease to be valid as against the creditors of the persons making the same, and as against purchasers and mortgagees in good faith for valuable consideration, and so on from year to year, that is to say, another statement as aforesaid, duly verified, shall be filed within thirty days next preceding the expiration of one year from the day of the filing of the former statement, or such mortgage, or copy thereof, shall cease to be valid as aforesaid.

CHAPTER 13.

An Act to amend the Act respecting the Registration of Co-partnerships and Business Firms.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

R. S. O., c. 123, s. 11, amended.

The eleventh section of the Revised Statute respecting the registration of co-partnerships and business firms, is hereby amended by inserting after the word "partnership" in the first line of the said section the words "or other person required to register a declaration under the provisions of this Act."

CHAPTER

CHAPTER 14.

An Act to further provide for the Release of Dower
of Married Women in certain cases.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where the wife of an owner of land has been living apart from him for two years under such circumstances as by law disentitle her to alimony, and such owner is desirous of mortgaging the land free from dower, he may apply to a judge of one of the superior courts, and, if the judge approves, he may, by order to be made by him in a summary way, upon such evidence as to the judge seems meet, and either *ex parte* or upon notice (to be served personally unless the judge otherwise directs), dispense with the concurrence of the wife for the purpose of barring her dower, and he shall (unless the wife has been so living apart from her husband under such circumstances as disentitle her to dower) ascertain and state in the order the value of such dower, and order such amount to remain a charge upon the property, or to be secured otherwise for the wife's benefit, or to be paid and applied for her benefit as he deems best; and thereupon a conveyance by way of mortgage by the husband, expressed to be free from his wife's dower, shall, subject to any terms mentioned in the order, be sufficient to bar her right thereto, as if she had duly executed a deed jointly with her husband for that purpose.

Application in order to mortgage land free from dower where wife disentitled by misconduct.

2. In case the gaol surgeon of any county or district in which a married woman resides, and another medical practitioner to be named by the judge, shall each certify (Form A) that he has personally examined such married woman and that he is of opinion that she is insane, and the judge of the county court of the county in which such married woman resides, or a judge of one of the superior courts, also certifies (Form B) that he has personally examined such married woman, and that from such examination and from the evidence adduced before him, if such judge thinks it expedient to hear evidence, he is of opinion that such married woman is insane, the said judge may make the like order as by the eighth or ninth section of the Revised Statutes of Ontario, chapter one hundred and twenty-six, is authorized in the case of a married woman of unsound mind who is confined in an asylum for the insane. The examination and certificates required by this section must all be made and granted within a period of one calendar

Judge's order as to dower where wife is lunatic but not confined in an asylum.

calendar month, or such certificates shall not be acted upon by the said judge, and the application shall not be entertained unless it is made within one month of the day upon which the last of such examinations took place.

Sec. 2, and
R. S. O., c. 126,
s. 8, to apply to
mortgages.

3. The preceding section of this Act, and the eighth section of the Revised Statute, chapter one hundred and twenty-six, shall apply to mortgages as well as sales.

Subsequent
orders by
judge as to
other sales or
mortgages.

4. In case a judge makes an order under the eighth or ninth section of the said Revised Statute; or under the second or third section of this Act, with reference to any parcel of land, he may afterwards make orders in respect of other sales or mortgages, either on the like evidence as is required for the first application, or on any other evidence which may satisfy him, of the continued insanity of the married woman.

Application
of this Act
and R. S. O.,
c. 126, s. 10.

5. This Act, and the tenth section of the Act respecting Dower, chapter one hundred and twenty-six of the Revised Statutes, shall apply to any case where any person owns or has the right to sell or mortgage (whether as trustee or otherwise) land which is subject to the dower of a lunatic, whether such dower is inchoate or complete, and whether the person applying is or is not the husband of the lunatic.

R. S. O., c.
127, ss. 6, 7, 8
and 10 to apply
to order under
this Act.

6. Sections six, seven, eight and ten of "The Married Womens' Real Estate Act," shall apply to any order made under this Act.

FORM A.

CERTIFICATE OF MEDICAL PRACTITIONER.

I, the undersigned *(here set forth the qualification or degree of the person certifying: for example, "Licentiate of the Medical Board," "M.D. of the University of Toronto," etc.)* a legally qualified Medical Practitioner, residing and practising at _____ in the County of _____ do hereby certify that I, on the _____ day of _____ A.D. 18____, at _____ in the County of _____ separately from any other Medical Practitioner, personally examined A. B. of the Township of _____ in the County of _____ wife of C. D., of the Township of _____ in the County of _____ and I further certify that the said _____ is insane and that I have formed this opinion upon the following grounds namely: *(here state the facts upon which the Certificate is based)*
Signed this _____ day of _____ A.D. 18____, at _____ in the County of _____

FORM

FORM B.

CERTIFICATE OF JUDGE.

Province of Ontario. } I, the undersigned, E. F.
 County of }
 Judge of the County Court of the County of
 do hereby certify that I on the day of
 A.D. 18 , personally examined A. B., of the
 of in the County of wife of C. D.
 of the of in the County of
 and I do hereby further certify that from such personal ex-
 amination (and from the evidence of G. H. and J. K. adduced
 before me, *if evidence has been taken by the judge*) I am of
 opinion that the said is insane.
 Signed this day of A.D. 18 , at
 in the County of

CHAPTER 15.

An Act to amend the law securing to wives and chil-
 dren the benefit of Assurances on the lives of their
 husbands and parents.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the
 Legislative Assembly of the Province of Ontario, enacts
 as follows :—

1. Section fifteen of the Revised Statutes of Ontario, chapter R. S. O., c.
 one hundred and twenty-nine, intituled "An Act to secure to 129, s. 15,
 wives and children the benefit of Assurances on the lives of repealed.
 their husbands and parents," is hereby repealed, and the follow-
 ing substituted therefor:

15. Any person who effects any such policy of insurance un- Insured may
 der this Act, or who has duly declared or may hereafter duly direct applica-
 declare a policy effected on his life to be for the benefit of his tion of bonuses
 wife and children or any of them, may in writing require the and profits.
 assurance company issuing such policy to pay the bonuses or
 profits accruing thereunder or portions of the same to the
 insured, or to apply the same or portions of the same in reduc-
 tion of the annual premiums payable by such insured in such
 way as he may direct; or to add the said bonuses or profits to
 the policy; and the said assurance company shall apply such
 bonuses or profits as such insured directs and according to the
 rates and rules established by such company.

2. This Act shall apply to policies heretofore made and to Application of
 bonuses or profits now declared in respect of such policies, and Act.
 to policies hereafter to be created under the said Act.

CHAPTER

CHAPTER 16.

An Act respecting the Appointment of Guardians for Infants.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Appointment
of guardian by
Surrogate.
Court.

1. The Surrogate Court for the county within which an infant resides may appoint the father of such infant to be his or her guardian ; or may with the consent of the father appoint some other suitable person or persons to be the guardian or guardians of such infant.

Authority of
guardian.

2. A guardian appointed under this Act shall have the like authority over the person and property of the infant as a guardian appointed under the first section of the Revised Statute respecting guardians of infants, and shall give security in the same manner.

Infant's con-
sent, when re-
quired.

3. Where the infant is of the age of fourteen years or over, no appointment shall be made under this Act without the consent of the infant.

CHAPTER 17.

An Act to extend the powers of the Law Society of Upper Canada.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS by an Act intituled " An Act respecting the Law Society of Upper Canada," chapter one hundred and thirty-eight of the Revised Statutes of Ontario, the thirty-eighth and forty-first sections thereof provided amongst other things, that the Benchers of the said Law Society might make all necessary rules, regulations and by-laws concerning matters relating to the discipline and honour of the Bar, and to the discipline and practice of attorneys, solicitors, and articulated clerks ; and whereas doubts have arisen touching the powers conferred upon the said Law Society by the said sections, and it is desirable that such doubts be removed ; and whereas it is expedient

expedient to define the powers of the said society in reference to the said matters of discipline ;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. Whenever any person, being a barrister or attorney-at-law, or a solicitor of the Court of Chancery, or a student-at-law, or attorney's clerk serving under articles, has been or may hereafter be found by the Benchers of the Law Society, after due inquiry by a committee of their number or otherwise, guilty of professional misconduct, or of conduct unbecoming a barrister, attorney, solicitor, student-at-law, or articled clerk, it shall be lawful for the said Benchers in Convocation to disbar any such barrister, and to resolve that any such attorney or solicitor is unworthy to practise as such attorney or solicitor ; to expel from the society, and the membership thereof, any such student or articled clerk, and to strike his name from the books of the society ; and to refuse either absolutely or for a limited period to admit such articled clerk to the usual examinations, or to grant him the certificate of fitness necessary to enable him to be admitted to practice.

Powers of Benchers to disbar or expel in case of misconduct.

2. Upon any barrister being disbarred as aforesaid, all his rights and privileges as a barrister-at-law shall thenceforth cease and determine, and notice of his being disbarred shall forthwith be given by the secretary of the Law Society to the superior courts of this Province.

Barrister's privileges to cease when he is disbarred.

3. Upon its being resolved by convocation that any attorney or solicitor is unworthy to practise, a copy of the resolution shall forthwith be communicated to the several superior courts, and thereupon, without any formal motion, an order of the said respective courts may be drawn up, striking such attorney or solicitor off the Rolls : Provided that such attorney or solicitor may at any time afterwards apply to any of the said courts to be restored to practice, as heretofore.

Striking off the Rolls.

4. Any powers which the visitors of the said Law Society may have in the said matters of discipline, are hereby vested in the Benchers of the said Law Society, and the powers by this Act given to the said Benchers may be exercised by them without reference to, or concurrence in, by the said visitors.

Powers of visitors as to discipline vested in the Benchers.

CHAPTER 18.

An Act to extend the powers of Companies incorporated under the Joint Stock Companies' Letters Patent Act.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

By-laws to increase capital.

1. Subject to the provisions of the seventeenth, eighteenth and nineteenth sections of "The Ontario Joint Stock Companies' Letters Patent Act," the directors of any company incorporated under the said act, at any time after nine tenths of the capital stock of the company has been taken up, and ten per centum thereon paid in, but not sooner, may if they see fit, make a by-law for increasing the capital stock of the company to any amount which they consider requisite for the due carrying out of the objects of the company ;

(2) Such by-law shall declare the number and value of the shares of the new stock, and may prescribe the manner in which the same are to be allotted, and in default of its so doing, the control of such allotment shall be held to rest absolutely in the directors.

Provision respecting name of companies.

2. The name of the Province of Ontario or of some locality therein shall constitute part of the name of every company hereafter incorporated under the said Act.

Additional powers which may be granted by Supplementary Letters Patent.

3. In case a resolution, authorizing an application to the Lieutenant-Governor therefor, is passed by a vote of not less than two-thirds in value of the shareholders present in person or by proxy at a general meeting of the company, duly called for considering the subject of such resolution, the Lieutenant-Governor in Council may from time to time direct the issue of Supplementary Letters Patent to the company, embracing any or all of the following matters :—

(1) Extending the powers of the company to any objects, within the scope of the said Act, which the company may desire ;

(2) Limiting or increasing the amount which the company may borrow upon debentures or otherwise ;

(3) Providing for the formation of a reserve fund ;

(4) Varying any provision contained in the Letters Patent, so long as the alteration desired is not contrary to the provisions of the said Act ;

(5)

(5) Making provision for any other matter or thing in respect of which provision might have been made by the original Letters Patent.

4. The Lieutenant-Governor may by Order in Council, to be notified in the *Ontario Gazette*, direct in what cases notice of application for Supplementary Letters Patent shall be given in the *Gazette* or otherwise, and the nature of such notice, and he may in any case dispense with notice.

Orders in Council may direct what notice of application to be given.

5. This Act shall be read as part of the said Ontario Joint Stock Companies' Letters Patent Act.

This Act to be read as part of R. S. O., c. 150.

6. The sixteenth section of the said Act is hereby repealed.

R. S. O. c., 150, s. 16, repealed.

CHAPTER 19.

An Act for the incorporation by Letters Patent and the regulation of Timber Slide Companies.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "The Timber Slide Companies Act of 1881."

2. In case the Lieutenant-Governor in Council thinks fit, he may confer upon any company which has heretofore been, or shall be hereafter incorporated, under the Ontario Joint Stock Companies Letters Patent Act, for the purpose of acquiring or constructing and maintaining any dam, slide, pier, boom, or other work, necessary to facilitate the transmission of timber down any river or stream in this Province, or for the purpose of blasting rocks or dredging, or removing shoals or other impediments, or of otherwise improving the navigation of any such river or stream for the said purpose, the powers authorized by the Revised Statute respecting Joint Stock Companies, for the construction of works to facilitate the transmission of Timber down Rivers and Streams, being chapter one hundred and fifty-three of the Revised Statutes.

Certain powers may be granted to timber slide companies.

3. Every such company shall thereupon become subject to all the provisions of the said Revised Statute as amended by this Act, and to the provisions of this Act.

R. S. O., c. 153, and this Act to apply to company.

4.

When letters patent may be issued.

4. The letters patent conferring the powers authorized by this Act shall not be issued to any company until proof has been furnished that one-half of the proposed capital has been subscribed in good faith, and that at least ten per centum thereof (or five per centum of the whole capital) has been paid in to the credit of trustees for the company, and remains at their credit in some one or more of the chartered banks of this Province.

Report to be transmitted to Provincial Secretary by applicants.

5. The applicants for a charter shall, with their application, transmit to the Provincial Secretary a report to be laid before the Commissioner of Public Works, in case the Provincial Secretary or other officer charged by the Lieutenant-Governor in Council with the duty of reporting thereon shall deem that the other requirements preliminary to the issue of the charter have been duly complied with, and shall also cause a copy of such report to be laid before the municipal council of the county in which such works are proposed to be situated; or if the works are situate in more than one county, then before the municipal councils of the counties in or on the boundaries of which such works are proposed to be situated; or if such proposed works are in unsurveyed lands not contained within the bounds of any incorporated county, then before the Commissioner of Public Works alone.

Rate of dividend may be stated in Letters Patent.

6. The Lieutenant-Governor may, in the letters patent, state a rate of dividend, not exceeding fifteen per centum, which the directors shall be at liberty to pay to the shareholders, if the revenues of the Company otherwise justify such payment, and in such case the Commissioner of Public Works, shall, in considering the tolls to be allowed, have regard to such rate, but no such rate shall be so fixed for a longer period than ten years.

Limitation of company's existence.

7. The existence of any company incorporated under this Act may be limited to such a term of years as is fixed by the letters patent.

Particulars of notice in *Gazette*.

8. The notice of application in the *Gazette* need not state the objects of the company with the same detail as is required in the report, but shall give such a description thereof as will reasonably inform the public of the works to be undertaken.

Contents of report.

9. The report shall contain—

(1) A detailed description of the works to be undertaken, and an estimate of their cost;

(2) An estimate from the best available sources of the quantity of different kinds of timber expected to come down the river or stream yearly after the works have been completed; and

(3) A schedule of the tolls proposed to be collected.

10. Thirty days after the said report has been laid before the municipal council, or councils, as the case may be, the Commissioner of Public Works shall consider the said report, and in case he approves of the proposed works, he shall report such approval to the Lieutenant-Governor who may thereupon direct the issue of a charter.

Report to be considered by Commissioner of Public Works.

11. Every such company may make by-laws, and from time to time alter and amend the same, for the purpose of regulating the safe and orderly transmission of timber over or through the works of the company, and the navigation therewith connected.

By-laws to regulate transmission of timber.

12. Copies of the proposed by-laws shall be annexed to the reports required to be made by the company by the fifth section of this Act, and such proposed by-laws with such variations as are made therein by the Commissioner of Public Works at any time before the issue of the letters patent, shall, upon the issue of such letters patent, become the by-laws of the company without further action or adoption by the company, and copies of all new by-laws, and of all amended by-laws, with reference to the said subjects, shall be annexed to the annual reports required by the twenty-seventh section of the said Revised Statute.

Copies of proposed by-laws to be annexed to reports of company.

13. No such new by-law, or amended by-law, shall have any force until one month after it has been included in such report; but if at the end of one month such by-law has not been disallowed as it may be by the Commissioner of Public Works, it shall have full force and be binding upon the company, and upon all persons using the works, unless the Commissioner in the meantime shall have under his hand enlarged the time for considering the same.

When by-law to come in force.

14. No such by-law shall impose any penalties, or shall contain anything contrary to the true meaning and intention of the said Revised Statute, chapter one hundred and fifty-three, or this Act.

Restrictions as to by-laws.

15. No such company shall construct any such works over or upon or otherwise interfere with or injure any private property, or the property of the Crown, without first having obtained the consent of the owner, or occupier thereof, or of the Crown, except as hereinafter provided.

Company not to interfere with property without leave.

16. No such company shall be formed under the provisions of this Act to improve any river or stream, for the improvement of which any other company has been formed either under this Act, or any other Act of the Legislature, or upon which there is constructed any provincial work, without the consent of of such other company or of the Lieutenant-Governor in Council respectively, which consent shall be formally expressed in writing, and shall be filed in the office of the Provincial Secretary.

Consent to formation of company, when required.

Recovery of
payments
made for
stockholders.

17. In all cases where a shareholder has not paid ten per centum on the share or shares held by him, but some other party pays the same on his behalf, the party so paying may recover the amount as a debt, in any competent court, although not previously authorized to pay the money on behalf of such shareholder.

On expiration
of Company's
existence, pro-
perty to vest
in Her
Majesty.

18. Upon the expiration of the period limited for the existence of the company, if any such period is limited by the letters patent, all the dams, slides, piers, booms and other works constructed by the company, for the transmission of timber down any river or stream, or for the improvement of the navigation of such river or stream, shall become the property of Her Majesty for the public uses of the Province, and the said company, or the shareholders thereof, shall have no right to receive any compensation therefor.

Company's
existence to
continue for
the purpose of
winding up.

19. Notwithstanding the expiration of the said period, the said company shall continue to exist for the purpose of taking such proceedings as may be requisite for getting in its assets, winding up and settling its affairs, and distributing amongst its shareholders the capital stock or accumulated sinking fund of the said company, and the said company may, for the purposes aforesaid, sue and be sued as if the period of its corporate existence had not expired; but after such period the words "in liquidation" shall be added to the name of the company, and shall be a part of such name.

Distribution
of capital and
profits.

20. No distribution of capital shall be made under the next preceding section until three years after the expiration of the said period limited as aforesaid for the existence of the said company, but this shall not prevent the distribution amongst the shareholders of the annual profits received from investments, and after the said period the fifty-seventh section of the said Joint Stock Companies' Letters Patent Act shall not apply to the company.

R.S.O., c. 153,
s. 57, amended.

21. The fifty-seventh section of the said Revised Statute, chapter one hundred and fifty-three, is hereby amended by inserting after the word "works," in the eleventh line thereof, the following words:—"and running, driving, booming, towing, sorting, and rafting logs and other timber, and providing an equal annual sinking fund, which, invested at six per centum, shall be sufficient to pay back to the shareholders the amount of their paid-up stock at the end of the time limited for the existence of the company," and by adding to the said section the following words: "unless a higher rate is authorized by the letters patent or by Order in Council under the sixth section of this Act."

Sec. 72,
amended.

22. The seventy-second section of the said Revised Statute is hereby amended by inserting after the words "undertaken
by

by them" the following words:—"and mentioned in the report required prior to the incorporation of the company;" and by inserting after the word "situate," in the ninth line thereof, the following words:—"or by the Commissioner of Public Works."

23. The seventy-third section of the said Revised Statute is hereby amended by inserting after the word "damage," in the thirteenth line thereof, the following words:—"incurred after the time limited for the existence of the company has expired, or." Sec. 73, amended.

24. The seventy-fifth section of the said Revised Statute is amended by adding at the end thereof the following words:—"and in settling the amount to be paid to the company for such works, the amount of the sinking fund accumulated at the time of such valuation towards the payment of the capital stock shall be deducted therefrom." Sec. 75, amended.

25. Where a company heretofore incorporated under the said Revised Statute, chapter one hundred and fifty-three, or under the Consolidated Statute of Canada, chapter sixty-eight, applies for the issue of letters patent under section sixty-five or section sixty-six of the Ontario Joint Stock Companies' Letters Patent Act, the Lieutenant-Governor may, by the letters patent, confer upon the said company any of the powers authorized by this Act, and may by such letters patent limit the term of existence of the said company, and every such company obtaining letters patent as aforesaid, shall be subject to the provisions of the said Revised Statute, chapter one hundred and fifty-three, as amended by this Act, and to the provisions of this Act. Letters patent may limit term of existence of certain companies.

26. The Lieutenant-Governor may by Supplementary Letters Patent extend the term of existence of any company incorporated for a limited period under this Act, for such a number of years, as by Order in Council made previous to the expiry of such period he may direct, and the provisions of this Act having regard to the expiration of the term of existence of a company shall thereupon apply to such term as so extended. Existence of company may be extended by supplementary letters patent.

27. Sections twenty-one, twenty-three, and twenty-four of this Act, shall not apply to any company heretofore incorporated, unless and until such company becomes re-incorporated under the said sixty-fifth section of the Ontario Joint Stock Companies' Letters Patent Act. Sections 21, 23 and 24 not to apply to certain companies.

28. The first twenty-six sections, and also sections numbered from twenty-nine to forty inclusive, of the said Revised Statute respecting Joint Stock Companies for the construction of works to facilitate the transmission of timber down rivers and streams, are hereby repealed, except as to companies heretofore incorporated under the said Act. R.S.O., c. 153. ss. 1-26 and 29-40, repealed

CHAPTER 20.

An Act to give increased stability to Mutual Fire Insurance Companies.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Copies of resolutions, subscription books, and statements of proposed business to be transmitted to Insurance Inspector.

1. When a mutual fire insurance company has been formed under the Act respecting Mutual Fire Insurance Companies, chapter one hundred and sixty-one of the Revised Statutes of Ontario, and has filed in the registry office copies of the resolutions and the subscription books, and the names of the directors, under the provisions of section seven of the said Act, and before they shall transact or be entitled to transact any insurance business, the chairman and secretary shall also transmit or deliver like copies duly certified to by them to the Inspector of Insurance, at his office in Toronto, accompanied by a statement signed by such chairman and secretary, stating the kind and character of the risks intended to be taken by the company, that is to say, whether the business to be transacted is the insurance of farm and isolated buildings and property, or of commercial, manufacturing and other hazardous and extra hazardous properties.

Inquiries to be made by Inspector after receiving statement.

2. Upon receipt of such certified copies and of the aforesaid statement by the Inspector, he shall proceed to ascertain whether the proceedings for the incorporation of such company have been taken in accordance with the law in that behalf, and whether the subscriptions are *bona fide*, and by persons possessing property to insure, and whether the proposed name is the same as that of any existing company, or may be easily confounded therewith, and he may require the declaration of any person or persons upon oath to be filed with him, touching any matters concerning which he is called upon to make inquiry.

On receipt of certificate from Inspector, Provincial Treasurer to certify that company entitled to transact business.

3. If upon such examination the Inspector shall find that the provisions of the Act have been complied with, and that the said subscriptions have been made in good faith by persons entitled to make the same, and that the proposed name of the company is satisfactory, he shall so certify to the Treasurer of the Province; if upon such examination the Inspector shall find that the proposed name is one which may be easily confounded with that of an existing company, the Lieutenant-Governor in Council may require the directors of the company to select some other name, to be approved of by the

the Lieutenant-Governor in Council,³ and they shall by resolution do so, and such resolution shall be filed with the Registrar in like manner as the other proceedings are required to be filed; upon the Inspector reporting to the Treasurer the facts aforesaid, the Treasurer may thereupon issue his certificate, in duplicate, under his hand and seal to the said company, setting forth that it has been made to appear to him that they have become a body corporate and politic under the said Act respecting Mutual Fire Insurance Companies, by the name of the Mutual Fire Insurance Company of, and that they have complied with the requirements of the law in that behalf, and that they will, from and after the filing of one of the duplicate copies of such certificate in the office of the registrar of the county or other registration division within which the municipality in which such company has been established is situate, be entitled to receive applications and to issue policies of insurance, and to transact all the business which a mutual fire insurance company formed under the aforesaid Act may lawfully do in respect of that kind or character of business mentioned in their statement to the Inspector.

4. The Inspector shall keep on file the said papers so furnished to him, and shall keep a book in which shall be entered the name of the company, the statement delivered by the company as to the character of the business to be transacted by the company, and a copy of the Treasurer's certificate.

Inspector to keep papers on file.

5. There shall be paid to the Treasurer upon the delivery of any such certificate to the said company, the sum of twenty dollars.

Fee to Treasurer on delivery of certificate.

6. Subject to the provisions of the one hundred and sixtieth chapter of the Revised Statutes of Ontario, any such company may, after receiving the aforesaid certificate and filing the same with the registrar as aforesaid, do and transact any business of a mutual fire insurance company of the kind and character mentioned in the certificate of the Treasurer, but of no other kind; nevertheless, any such company may at any time thereafter apply to the Treasurer for a supplementary certificate to enable the company to extend their business to other classes of risks than those included in their certificate, and the same may, upon the report of the Inspector of Insurance, be granted by the Treasurer. When any supplementary certificate is granted it shall be recorded in the books of the Inspector of Insurance, and filed in the registry office in which the certificate has been filed.

Company may do business only of kind stated in certificate.

GUARANTEE CAPITAL.

7. Any mutual insurance company formed under this Act or any former Act, may raise by subscription of its members,

Power to raise a guarantee capital.

or

or some of them, or by the admission of new members not being persons insured in the company, or by loan or otherwise, a guarantee capital of any sum not less than twenty thousand dollars nor exceeding two hundred thousand dollars, which guarantee capital shall belong to such company and be liable for all the losses, debts and expenses of the company, and subscribers of such capital shall, in respect thereof, have such rights as the directors of the company declare and fix by a by-law to be passed before such capital is subscribed, and unless such capital is paid off or discharged, such by-law shall not be repealed or altered without the consent of the majority of votes of the shareholders or subscribers of such capital who represent a majority of the shares subscribed, either personally or by proxy, at a meeting held for that purpose of the holders of such capital, each shareholder or subscriber being entitled to a vote for every share of fifty dollars held by him.

Limitations as
to guarantee
capital.

8. Such capital shall be subscribed by not less than ten persons, and no one person shall subscribe or hold or receive dividends, interest or commissions, upon more than twenty per centum of such guaranteed capital of said stock; the original list of the subscribers to such guarantee capital shall be transferred to and be deposited with the Treasurer of this Province, and shall be held as security for the payment of all losses and other policy liabilities of such companies.

(2) The company may from time to time, in accordance with the provisions of any by-law in that behalf, require any portion of the subscribed guarantee capital to be paid over to the company for the purpose of settling any losses of the company. Any sums so advanced shall be repaid by the company within one year thereafter from the proceeds of assessments upon the premium notes liable to assessment for such purpose, and such assessments may be made from time to time by the company for the purpose of repaying such advances.

Guarantee
capital not to
be withdrawn
until premium
notes amount
to 3 per cent.
of amount at
risk.

9. Said guarantee capital, or any part of the same, shall not be withdrawn until the premium notes held by such company for insurance actually in force, shall amount to three per centum of the amount of property covered by policies in the company nor until one year's notice shall have been given to the Inspector of Insurance of the intention to withdraw the same; whenever the premium notes held by such company shall have reached the above amount, the president and secretary, or the directors of the company, may file a certificate, under oath, with the Inspector of Insurance, stating that the company holds premium notes of the amount and kind aforesaid, and publish a copy of said certificate, once a week or oftener, for at least four weeks, in some newspaper having general circulation and published in the county or city where such company has its principal office, and also in the *Ontario Gazette* for a like period.

10. When the company shall have filed such certificate, and also proof of such publication, with the Inspector, the latter shall make or cause an examination to be made, and if he shall find that the company has the above amount of premium notes of the kind and character aforesaid, and is in a sound and solvent condition, he shall report the same to the Treasurer who may give such company a certificate discharging said fund from all its obligations and liabilities; upon which said fund shall be surrendered to the parties depositing or entitled to receive the same, and they may be discharged from their obligations as such guarantors as aforesaid.

On report of Inspector, Treasurer may give certificate discharging guarantee capital.

(2) Immediately after the discharge or withdrawal of a guaranty fund or capital, the company shall give notice thereof in the *Ontario Gazette*, and in some newspaper published in the county town of the county in which the company has its head office, by insertion of such notice once a week for at least three successive weeks in the *Gazette* and in said newspaper.

SHARE OR STOCK CAPITAL.

11. Any mutual fire insurance company, incorporated under this or any former Act, may raise a share or stock capital of not less than one hundred thousand dollars, and may increase the same from time to time to a sum not exceeding five hundred thousand dollars.

Power to raise share capital.

12. Every subscriber shall, on allotment of one or more shares to him, become a member of the said company, with all incidental rights, privileges and liabilities.

Subscribers to become members of company.

13. The said shares shall be personal estate, and shall be transferable, but no transfer shall be valid unless made on the books of the said company; and, until fully paid up, no share shall be transferable without the consent of the board of directors, nor shall any transfer be valid while any call previously made remains unpaid; and the company shall have a lien on the shares of any shareholder for unpaid calls or other debts due by him to the company, and for any obligation held by the company against him, and after such call, debt or obligation becomes due, the company may, upon one month's notice to the shareholder, his executors, or administrators, sell such shares or a sufficient portion thereof to pay such call, debt or obligation, and transfer the shares so sold to the purchaser.

Transfer of shares.

14. The company may, also, after default made in the payment of any call upon any share for one month, and after notice having been first given as in the next preceding section mentioned, declare such share and all sums previously paid thereon, forfeited to the company, and the company may sell or re-issue forfeited shares on such terms as they shall think fit for the benefit of the company.

Forfeiture of shares.

15.

When company may make insurances for premiums payable wholly in cash.

15. After the sum of one hundred thousand dollars of the said stock or share capital has been *bona fide* subscribed, and twenty per centum paid thereon into the funds of the said company, the said company may make insurances for premiums payable wholly in cash; but no insurance on the wholly cash principle shall make the insured a member of the company, or make him liable to contribute or pay any sum to the company, or to its funds, or to any other member thereof, beyond the cash premium agreed upon, or give him any right to any participation in the profits or surplus funds of the company, but the company shall not transact any such business on the wholly cash principle without first procuring a license from the Provincial Treasurer, and for this purpose the provisions of the Ontario Insurance Act, except section nine, shall apply to the company, except in so far as anything contained therein may be inconsistent with this Act.

Dividends.

16. The net annual profits and gains of the said company, not including therein any premium notes or undertakings, shall be applied, in the first place, to pay a dividend on the said share capital, not exceeding the rate of ten per centum per annum, and the surplus, if any, shall be applied in the manner provided by the by-laws of the company.

Qualification of directors.

17. After the share capital has been subscribed as aforesaid, at least two-thirds of the persons to be elected directors of the company, in addition to the qualifications required by the fourteenth section of the Act respecting Mutual Fire Insurance Companies, shall be holders of shares of the said capital stock to the amount of three thousand dollars, on which all calls have been fully paid; the other one-third of the directors to be elected shall possess at least the qualifications required by the said fourteenth section of the Act respecting Mutual Fire Insurance Companies.

By-laws.

18. The board of directors of any company which shall raise a share or stock capital under this Act, may make such by-laws, subject to the provisions of this Act and not inconsistent with or contrary to law, as may be necessary to carry out the objects and intentions of this Act, and to give effect to the provisions thereof; and may rescind, alter, vary, or add to the same from time to time.

How a mutual company may become a stock company.

19. Any mutual insurance company heretofore incorporated or organized, or which may be hereafter incorporated or organized, under any of the laws of this Province, having surplus assets, aside from premium notes or undertakings, sufficient to reinsure all its outstanding risks, after having given notice once a week for four weeks, of their intention, and of the meeting hereinafter provided for, in the *Ontario Gazette* and in a newspaper published in the county where such company is located, may, with the consent of two-thirds of the members

members present at any regular annual meeting, and of two-thirds of the subscribers of guarantee capital or share or stock capital, or at any special meeting duly called for the purpose, or with the consent, in writing, of two-thirds of the members of such company, and the consent, also, of three-fourths of the directors, and of two-thirds of the subscribers to the guarantee capital and share or stock capital, notwithstanding anything contained in the third and fifty-first sections of the one hundred and fiftieth chapter of the Revised Statutes of Ontario, become a joint stock company, under the said one hundred and fiftieth chapter of the Revised Statutes of Ontario, by conforming to and otherwise proceeding in accordance with the provisions of the said last mentioned Act; and every member of such company, on the day of said annual or special meeting, or the date of said written consent, shall be entitled to priority in subscribing to the capital stock of said company, for one month after the opening of the books of subscription to such capital stock, in proportion to the amount of insurance held by such members on unexpired risks in force on the day of said annual or special meeting, or the date of said written consent; and every company so changed or organized shall come under and be subject to the provisions of the said last mentioned Act.

20. Any company which may be formed under the provisions of the last preceding section shall be answerable for all the liabilities of the company from which it has been formed, and may be sued therefor by or under its new corporate name, and the assets, real and personal, of the old company shall pass to and become vested in the new company.

New company to be answerable for liabilities of former company.

21. Any insurance company or association formed under this Act or any former Act shall keep such a classification of its risks and such registers and books of account as may from time to time be directed or authorized by the Lieutenant-Governor in Council; and if it appears at any time to the Inspector that such books are not kept in such a business-like way as to make at any time a proper showing of the affairs and standing of the company, he shall report the same to the Treasurer of the Province, who shall thereupon nominate a competent accountant to proceed, under the directions of the Inspector, to audit such books and give such instructions as will enable the officers of such company to keep them correctly thereafter, the expenses of such accountant to be borne by the company to which he is sent, and shall not exceed five dollars per day and necessary travelling expenses.

Company to keep such books as may be directed by Lieutenant-Governor in Council.

22. Section forty-six of the Act respecting Mutual Fire Insurance Companies is amended by adding thereto the following words: "but not more than fifty per centum of any premium or premium note shall be paid in cash at the time of such application or of effecting the insurance."

R. S. O., c. 161, s. 46, amended.

23.

Penalty for violation of this Act.

23. Any officer, agent, employee, or other person, who shall hereafter solicit risks, issue policies or renewals, or effect contracts of insurance in contravention of the terms of this Act, shall be liable to the penalties provided for by section nineteen of the one hundred and sixtieth chapter of the Revised Statutes of Ontario, and such penalties may be recovered, imposed and enforced in the manner provided for by said section.

Change of name.

24. Where any insurance company which is within the legislative authority of this Province, is desirous of adopting another name differing from that by which it was incorporated, or where in the opinion of the Lieutenant-Governor in Council the name by which such company was so incorporated, may be easily confounded with that of any other existing company, the Lieutenant-Governor in Council, upon being satisfied that a change of name will not work or effect any improper purpose, may by Order in Council change the name of the company to some other name to be set forth in the Order in Council; but no such change of name shall affect the rights or obligations of the company; and all proceedings which might have been continued or commenced by or against the company by its former name may be continued and commenced by or against the company by its new name.

Notice of application for change of name.

25. The Lieutenant-Governor in Council may require the same notice to be given upon any application for such change of name as is required under an application for Letters Patent by the one hundred and fiftieth chapter of the Revised Statutes of Ontario.

R.S.O., c. 161, s. 8, amended.

26. The Revised Statutes respecting Mutual Fire Insurance Companies, chapter one hundred and sixty-one, section eight, is hereby amended by striking out all the words after the word "adopted" in the fifth line of the said section.

Sec. 61 amended.

27. Section sixty-one of the Act respecting Mutual Fire Insurance Companies, is amended by adding thereto the following: But this section shall not apply to any judgment recovered on any policy or undertaking of the company heretofore issued or given where more than fifty per centum of the premium or premium note was paid in cash at the time of the insurance or the application therefor. A judge in chambers, or a referee in chambers, shall, upon the recovery of a judgment against the company, upon the application of the person in whose favour the same has been recovered, upon notice to the company, inquire into the facts, and if he shall certify that more than fifty per centum of the premium, or of the premium note, was paid in cash at the time of the insurance, or the application therefor, execution may be forthwith issued upon such judgment.

R.S.O., c. 162, to apply to mutual fire

28. The Fire Insurance Policy Act, chapter one hundred and sixty-two, of the Revised Statutes of Ontario, shall apply to mutual

mutual fire insurance companies and to all policies to be here-
after issued by any mutual fire insurance company except where
the provisions of the Act respecting mutual fire insurance com-
panies are expressly inconsistent with, or are supplementary and
in addition to the provisions of the said Fire Insurance Policy
Act.

29. This Act shall be read and construed with and as part
of the Act respecting Mutual Fire Insurance Companies.

insurance
companies.

This Act to be
read as part of
R. S. O., c.
161.

30. This Act may be cited as "The Mutual Fire Insurance
Companies' Act, 1881."

Short title.

CHAPTER 21.

An Act respecting returns required from Incorporated Companies.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

1. No action brought against any incorporated company
which is required, or whose directors or officers are required,
to make a return to the Government of Ontario, or to any
officer or department thereof, or brought against any director
or officer of such company, either under the provisions of the
"Ontario Joint Stock Companies' Letters Patent Act," or under
any other Act, for not duly making a return in accordance with
the requirements of any such Act, or for any default in re-
spect of the mode of dealing with such return, shall be
maintained if such action is or was commenced subsequent
to the receipt by the proper officer or department of the said
Government of the return, for the non-making of which, or
with reference to which such action is brought, or subsequent
to the receipt by such officer or department of a return for a
later year: Provided the return made is, except in respect
of the time at which the same is made, in substantial compli-
ance with the requirements of the Act under which it is or was
made as aforesaid, and is duly verified in accordance with the
provisions of such Act, unless such action is brought by the
Crown, or by the Attorney-General of Ontario suing on behalf
the Crown.

No action for
default in
making return
to be brought
after receipt
of return by
proper officer.

Proviso.

2. The entire amount of the penalty or penalties to be re-
covered against any company, or the directors or officers there-
of, in respect of any default or defaults in complying with
any

Limitation of
amount of
penalty.

any of the requirements of the forty-ninth section of the said Ontario Joint Stock Companies' Letters Patent Act, or in complying with the requirements, in respect of the making of returns, of any other Act up to the time at which such action is brought shall not in the whole exceed one thousand dollars, and in case several actions are brought, either against the company or against its directors or officers, the court or a judge thereof may give such directions as may appear just, either for consolidating such actions or staying the later action or actions, or any of the said actions, upon such terms as may be deemed fitting, and so much of any Act as authorizes the recovery of any greater penalty is hereby repealed.

When R. S.O.,
c. 150, s. 49,
not to apply.

3. The forty-ninth section of the said Revised Statute shall not be held to apply or to have applied to any company until the first day of February next after the first thirty-first day of December, after such company has been organized, or has gone into actual operation, whichever shall first happen, and shall not be held to apply to any company which has ceased to carry on business; and upon its being proved that any company to which this Act applies did not transact any business (other than the payment of taxes or the making of a return) during the year for which it is alleged a return in accordance with the requirements of law has not been made such company shall be deemed to have ceased to carry on business within the meaning of this section.

"Return"—
meaning of.

4. The word "Return" where used in this Act shall include any list, statement or other information required to be furnished to the Government of Ontario, or to any officer or department thereof, by any incorporated company.

CHAPTER 22.

An Act to make provision for the safety of Railway Employees and the Public.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS frequent accidents to railway servants and others are occasioned by the neglect of railway companies to provide a fair and reasonable measure of protection against their occurrence; and whereas a proper construction of railway bridges and certain precautions in the construction and maintenance of railway frogs, wing-rails, guard-rails, and freight cars would greatly lessen, if not entirely prevent, the happening of such accidents;

Therefore

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "The Railway Accidents Act, Short title. 1881."

2. This Act and the respective provisions thereof apply to every railway and railway company in respect of which the Legislature of Ontario has authority to enact such provisions respectively; and, in this Act, the expression "railway company" includes the owner or lessee of any such railway, and the contractor working or operating the same. Application of Act.

3. In this Act the word "packing" shall mean a packing of wood or metal, or some other equally substantial and solid material, of not less than two inches in thickness, and which, where by this Act required to be filled in, shall extend to within one and a-half inches of the crown of the rails in use on any such railway, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid. "Packing," meaning of.

4. Every highway or other overhead bridge, or other erection or structure over any railway, existing at the time of the passing of this Act, of which the lower beams or members of the superstructure are not of a sufficient height from the surface of the rails to admit of an open and clear headway of at least seven feet between the top of the highest freight cars then running on such railway and the bottom of such lower beams or members, shall, within twelve months from that date, be re-constructed to that effect, with suitable approaches thereto, if a bridge, by and at the cost of the railway company, municipality or other owner thereof, and shall, at all times thereafter be maintained at such height; and every such railway company before using higher freight cars than those running on their railway at the time of the passing of this Act, or of the re-construction as aforesaid of any such bridge or other erection or structure, as the case may be, shall, after having first obtained the consent of the municipality, or of the owners of such bridge or other erection or structure, raise every such bridge or other erection or structure over their railway and the approaches thereto, if necessary, at the cost and charges of the railway company, so as to admit as aforesaid an open and clear headway of not less than seven feet over the top of the highest freight car then about to be used on the railway. Existing bridges to be altered so as to leave a space of 7 feet between such bridges and the tops of freight cars.

5. Whenever a highway bridge or any other erection or structure shall hereafter be constructed over a railway, or whenever it shall become necessary to re-construct any highway bridge, or other erection or structure already built over a railway, Where new bridges are built or old ones re-built, space of 7 feet

to be left between such bridges and the tops of freight cars.

railway, or to make large repairs to the same, the lower beams or members of the superstructure of any such highway or overhead bridge, or of any other erection or structure over any railway, and the approaches thereto, shall be constructed or reconstructed by and at the cost of the railway company or of the municipality or other owner of the bridge, erection or structure, as the case may be, and shall at all times be maintained at a sufficient height from the surface of the rails of the railway to admit of an open and clear headway of not less than seven feet between the top of the highest freight cars then running on the railway and the lower beams or members of such bridge or other erection; and thereafter, any railway company, before using higher freight cars than those running on their railway at the time of the construction or reconstruction of, or large repair to, such bridge or other erection or structure, shall, after having first obtained the consent of the municipality, or of the owners of such highway bridge, or other erection or structure, raise the said bridge or other erection or structure, and the approaches thereto, if necessary, at the cost and charges of the railway company, so as to admit, as aforesaid, an open and clear headway of not less than seven feet over the top of the highest freight car then about to be used on the railway.

Special provisions against accident.

6. To make further provision against accidents, it is hereby further enacted that

- (1) On every railway aforesaid, and at all times after the lapse of three months from the passing of this Act, the space between the rails in each railway frog extending from the point thereof backward to where the heads of such rails are not less than five inches apart, shall be filled in with packing;
- (2) On every such railway, and at all times during every month of April, May, June, July, August, September and October after the passing of this Act, (but not including the months of April and May next after the passing hereof), the space between any such wing-rail and railway frog, and between any such guard-rail and any other rail fixed and used alongside thereof as aforesaid, and between all wing-rails where no other rail intervenes, shall, (save only where such space between the heads of any such wing-rail and railway frog as aforesaid, or between the heads of any such guard-rail and other rail fixed and used alongside thereof as aforesaid, or between the heads of any such wing-rails where no other rail intervenes as aforesaid, is either less than one and three-quarters of an inch or more than five inches in width,) be filled in with packing;
- (3) The running-board on the roof of each box car used for freighting purposes on any such railway, shall at all

all times after the lapse of twelve months from the passing of this Act, be of a sufficient thickness and strength, and not less than thirty inches in width, and shall, with proper and safe supports, extend the whole length of such car and beyond each end thereof to a point not more than two inches less than that to which the dead-wood or bumpers at each end of such car likewise extend ;

And every railway company owning, working or operating within this Province any such railway, shall on and throughout said railway so make, arrange and construct and re-arrange, reconstruct and maintain all railway frogs, wing-rails, guard-rails and other rails forming part of such railway or used therewith, and every such space as aforesaid, and the filling in thereof with packing as aforesaid, and the running-board on every such box car as aforesaid in such manner and at such time that the same shall respectively conform to and comply with the requirements in that behalf of this section.

7. Where within this Province personal injury is caused to a railway servant, whilst in the employment or service of a railway company, on any railway owned, worked or operated by said railway company, or to any other person lawfully in, upon or about said railway, or any train or car thereon, and such personal injury has been occasioned or arose either wholly or partly

Railway company neglecting provisions of the preceding sections to be liable for injury occasioned by such neglect.

- (1) By reason of the lower beams or members of the superstructure of any highway, or other overhead bridge, or any other erection or structure over said railway, not being at all times after the lapse of twelve months from the passing of this Act, of a sufficient height from the surface of the rails to admit of an open and clear headway of at least seven feet between the top of the highest freight cars then running on such railway, and the bottom of such lower beams or members; or,
- (2) By reason of the space between the rails in any railway frog, extending from the point of such frog backward to where the heads of such rails are not less than five inches apart, not being at all times after the lapse of three months from the passing of this Act filled in with packing; or,
- (3) By reason of the space between any wing-rail and any such railway frog, and between any such guard-rail and any other rail fixed and used alongside thereof as aforesaid, and between all wing-rails where no other rail intervenes, (save only where such space between the heads of any such wing-rail and railway-frog as aforesaid, or between the heads of any such guard-rail and other rail fixed and used alongside thereof as aforesaid,

or

or between the heads of any such wing-rails where no other rail intervenes as aforesaid, is either less than one and three-quarters of an inch or more than five inches in width,) not being at all times during every month of April, May, June, July, August, September and October, excepting the months of April and May next after the passing hereof, filled in with packing; or

- (4) By reason of the running-board on the roof of any box car used for freighting purposes on any such railway, after the lapse of twelve months from the passing of this Act, not being of a sufficient thickness and strength, and at least thirty inches in width, and with proper and safe supports, extending the whole length of such car and beyond each end thereof to a point not more than two inches less than that to which the dead-wood or bumpers at each end of such car shall then be likewise extending,

such railway servant or other person, or in case the injury results in death, the legal personal representatives of such servant or other person, and any persons entitled in case of death, shall be entitled to recover from such railway company compensation for all damages and loss sustained from or by reason of such injury; and where any such injury has been so caused to or suffered by any such railway servant, the right of compensation and the remedies against the railway company shall be the same as if such railway servant had not been a servant of, nor in the employment of the railway company, nor engaged in its work.

When railway not liable for default.

8. A railway servant shall not be entitled, under this Act, to any right of compensation or remedy against the railway company of which he is such servant in any of the following cases, that is to say:

- (1) Unless the default, matter, or thing wholly or partly occasioning the personal injury as mentioned in section seven of this Act, arose from or had not been discovered or remedied, owing to the negligence of such railway company, or of some person in the service of and entrusted by the railway company with the duty of seeing that such default, matter or thing did not happen, occur or exist;
- (2) In any case where the railway servant knew of the matter, default or negligence which caused the injury, and failed within a reasonable time to give, or cause to be given, information thereof to the railway company or some person superior to himself in the service of the railway company, unless he was aware that the railway company or such superior already knew of the said matter, default or negligence;

(3)

- (3) In any case where such matter, default or negligence was occasioned by his own act, omission or negligence.

9. The amount of compensation recoverable under this Act, in the case of injury to any railway servant as aforesaid, shall not exceed such sum as may be found equivalent to the estimated earnings, during the three years preceding the injury, of a person in the same grade, employed during those years in the like employment, and within this Province. Limit of compensation for injury.

10. An action for the recovery, under this Act, of compensation for an injury, shall not be maintainable unless the action is commenced within six months from the occurrence of the accident causing the injury, or, in case of death, within twelve months from the time of death. Limitation of actions.

CHAPTER 23.

An Act respecting Aid to certain Railways.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited and known as “The Railway Aid Title Act, 1881.”

2. Subject to the conditions of this Act, aid shall be granted out of the Consolidated Revenue Fund, to the undermentioned railway companies for the construction of the portions of railway hereinafter mentioned, that is to say:— Railways aided.

(1) The Erie and Huron Railway Company from Rondeau, on Lake Erie, to Dresden, including the Wallaceburg branch, from a point on the main line to the village of Wallaceburg, a distance, including the said branch, of about forty miles, at the rate of one hundred and fifty-three dollars and seventy-five cents per mile per annum, payable half-yearly for twenty years; Erie and Huron Railway.

(2) The Stratford and Huron Railway Company, from Harriston to Wiarton, a distance of about sixty-two miles, at the rate of one hundred and fifty-three dollars and seventy-five cents per mile per annum, payable half-yearly for twenty years; Stratford and Huron Railway.

Georgian Bay
and Wellington
Railway.

(3) The Georgian Bay and Wellington Railway Company, from Mount Forest to Durham, a distance of about sixteen miles, at the rate of one hundred and fifteen dollars and thirty-two cents per mile per annum, payable half-yearly for twenty years.

Payment in
aid, how com-
puted.

3. The payment in aid of railways under this Act shall be computed in manner following, that is to say :—

(a) If the portion of the railway for which payment is made has been completed between the first day of January and the first day of July, the payments shall be computed as commencing on the first day of January of the preceding year ;

(b) And if the portion for which the payment is made has been completed between the first day of July and the thirty-first day of December, the payment shall be computed as commencing on the first day of July of the preceding year.

Conditions of
aid.

4. All of the said grants of aid are respectively subject to the following conditions :—

(1) The Lieutenant-Governor in Council may require any railway company so aided, or any railway company formed by an amalgamation of any company or companies aided under this Act with any other railway company or companies which shall have received aid from Provincial funds, to enter into an agreement or agreements with any other railway company or companies, containing such terms and details as the Lieutenant-Governor in Council may approve of, in order to secure running powers or rights of use to such company or companies over the line or portion of line of railway of the company aided under this Act, or former Acts, or in the discretion of the Lieutenant-Governor in Council, for the haulage thereover of the cars and traffic of such other company or companies, upon such terms as, in default of agreement between the respective companies, may be settled upon by the Lieutenant-Governor in Council ;

(2) No payments shall be made to any of the said companies in respect of the said grants of aid for any portion of their railway, until the Commissioner of Public Works has reported to the Lieutenant-Governor in Council, that such company has completed the portion of its road in respect of which payment is to be made (including such sidings and station-houses as the Commissioner may think necessary for the accommodation of the public) within the period for completing the railway or portion thereof named in the Acts relating to the company, or by this Act, or such other period as may by this or any other Act be fixed for such purpose ;

(3) Payments may be made as portions of the railway, not less than ten continuous miles, are completed as aforesaid ; and
in

in cases where the whole distance aided is less than ten miles, then for such distance, except that in the case of the Erie and Huron Railway no payments shall be made until the whole distance of the main and branch lines, with the necessary sidings and stations, is fully completed as aforesaid;

(4) After a company has complied with the conditions necessary, and the Commissioner has reported as aforesaid, scrip or certificates may be issued for and in respect of the said grant, which scrip or certificates may be in the form of Schedule "A" to this Act, or to the like effect; and when signed by the Treasurer of this Province and the accountant in his department, and countersigned by the auditor, every such certificate shall be valid and binding on the Province, according to its tenor and effect; and it shall not be necessary for any transferee, in good faith of such certificate, to inquire into, or obtain proof of, any facts stated therein, all of which shall be deemed conclusive as against the Province, in favour of such transferee;

(5) Each of the said companies shall furnish such information of the progress of the works on the railway of the company as may from time to time be required by the Commissioner of Public Works; and also such statistical or other details, accounts and information, as from time to time may be required from them by the Commissioner after completion of the railway;

(6) In order to secure the continuous running of such railways aided by this Act, the iron or steel rails laid from time to time by any of the said railways are not to be removed by the company, or by the authority of the company, without the consent of the Lieutenant-Governor in Council, obtained on the recommendation of the Commissioner of Public Works.

5. Section twenty-five of chapter one hundred and sixty-six of the Revised Statutes of Ontario, is hereby repealed.

R. S. O., c.
166, s. 25,
repealed.

6. The Lieutenant-Governor in Council may also grant such bonus, subsidy, or annual payment to any company now or hereafter to be incorporated, not in excess of a present payment of two thousand eight hundred and fifty dollars per mile, in such mode and according to such terms and conditions as will secure the construction of a line of railway extending from a point in the district of Muskoka as far north as Gravenhurst, so as to connect the present Ontario system of railways with Sault Ste. Marie; the total mileage not to exceed three hundred miles; the grant of such bonus, subsidy, or annual payment to any company shall be provisional, until sanctioned by resolution of the Legislative Assembly; and shall only be upon and subject to proper conditions for securing full running powers and other rights of user for other railways; and also for securing equal facilities for the receipt, transfer and transportation

Aid to railway
from Muskoka
to Sault Ste.
Marie.

portation to, from, or over the said railway of the traffic of other connecting lines of railway and the imposing such conditions as will secure the establishing, levying and collecting equal tolls, rates and charges in respect of the traffic received from or to be delivered to other railways, and upon and subject to such other conditions for securing the due application of the grant, the construction of the railway, and otherwise as the Lieutenant-Governor in Council may require, and no agreement in the premises shall be operative until ratified by resolution of the Legislative Assembly.

SCHEDULE "A."

(Sec. 4, sub-s. (4).)

PROVINCE OF ONTARIO, CANADA.

The Railway Aid Act, 1881. Certificate for payment.

No.

This is to certify that under and by virtue of a certain Order made by the Lieutenant-Governor of the Province of Ontario in Council, and dated the

under the provisions of "The Railway Aid Act, 1881," the Railway Company is entitled to receive from the Province of Ontario, a semi-annual subsidy of dollars, payable on the thirtieth day of June, and on the thirty-first day of December, in each and every year, until and inclusive of the thirty-first day of December, one thousand eight hundred and

, and it is hereby further certified that the Province of Ontario will, upon the day of , one thousand eight hundred and , and upon the delivery of this certificate to the Treasurer of the said Province at Toronto, pay to the said Company or its Assigns, the sum of dollars, and cents, being the amount of subsidy payable to the said Company upon such day. This certificate and any interest in the sum mentioned therein shall not pass or be transferable except by transfer made by special indorsement thereon.

Issued by the Treasurer of Ontario, this day of , A.D. 18 , in accordance with Order in Council dated day of , A.D. 18

Treasurer.

Accountant.

Countersigned by

Auditor.

CHAPTER 24.

The Municipal Amendment Act of 1881.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section one hundred and forty of the Municipal Act is ^{R.S.O., c. 174,} amended by striking out the words "a mark" in the fourth line ^{s. 140,} thereof, and inserting the words "his initials" in lieu thereof. ^{amended.}

2. Section one hundred and fifty of the said Act, letter (g), ^{Sec. 150,} is amended by striking out the words "the voters' list with ^{amended.} the oath in the form of schedule 'G,' annexed thereto."

3. Sub-section two of said section one hundred and fifty is ^{Sec. 150, sub-a,} amended by striking out the words "before placing the voters' ^{2, amended.} list in its proper packet," and substituting therefor the words "before returning the said voters' list to the clerk of the municipality," and by adding to said sub-section two, after the words "voters' list" in the last line thereof, the following: "and such voters' list and declaration may be inspected at any time in presence of the clerk, by any elector of the municipality."

4. Section one hundred and sixty-five of the said Act is here- ^{Sec. 165,} by amended by adding thereto the following words: "But no ^{amended.} candidate shall be present at the marking of a ballot by an incapacitated voter, or a voter unable to read, under section one hundred and forty-four."

5. Section two hundred and seventy-three of the said Act is ^{Sec. 273,} amended by adding the following proviso: "Provided that ^{amended.} where an attorney, solicitor or counsel, is employed by any municipality, whose remuneration is wholly or partly by salary, annual or otherwise, the municipality shall, notwithstanding, have the right to recover and collect lawful costs in all suits and proceedings in the same manner as if such attorney, solicitor or counsel, was not receiving such salary, when such costs are by the terms of his employment payable to such attorney, solicitor or counsel as part of his remuneration in addition to his salary.

6. Section three hundred and thirty-three of the said ^{Sec. 333,} Act is hereby amended, by adding thereto the following sub- ^{amended.} section:—

(2) Provided always, that where a county and city are united for judicial purposes the council of the county or city may

may, by by-law or by-laws passed at any meeting of such council, without submitting the same for the assent of the electors of such county or city, as the case may be, for contracting such debt, raise such sums of money as may be required for erecting, building and furnishing a court house and offices, to be used in connection therewith, and for acquiring such land as may be necessary or convenient for the purposes of such court house and offices.

Sec. 334
amended.

7. Section three hundred and thirty-four of the said Act is hereby amended, by adding after the word "expenditure" in the fourth line thereof, the words "other than a by-law to raise money for erecting, building and furnishing a court house and offices aforesaid, or for acquiring land as provided in the second sub-section of section three hundred and thirty-three."

Sec. 358 re-
pealed.

8. Section three hundred and fifty-eight of the said Act is hereby repealed, and the following substituted in lieu thereof:

Investment of
sinking fund.

(358) If any part of the produce of the special rate levied in respect of any debt, and at the credit of the sinking fund account, or of the special rate account thereof, cannot be immediately applied towards paying the debt, by reason of no part thereof being yet payable, the council shall, from time to time, invest the same in government securities, municipal debentures, or in first mortgages on real estate held and used for farming purposes, and being the first lien on such real estate, or otherwise as the Lieutenant-Governor in Council may by general or special order direct; and from time to time, as such securities mature, may invest in other like securities; no sum so invested in mortgages shall exceed two-thirds of the value of the real estate on which it is secured according to the last revised and corrected assessment roll at the time it is invested;

(2) The council of such municipality shall have power to regulate, by by-law, the manner in which such investments shall be made.

Sec. 436,
amended.

9. Section four hundred and thirty-six of the said Act is amended by adding the following sub-section:

Power to
compel per-
sons sent to
industrial
farms, etc., to
work thereon.

(3) The council may provide, by by-law, to require such persons as may be sent to such industrial farm or other place to work on the said farm, or at any work or service for the said municipality at such times, and for such hours, and at such trade or labour as they may appear to be adapted for respectively, and to buy and sell material therefor, and to apply the earnings, or parts thereof, of such persons for their maintenance or the maintenance of the wife and child or wife or children (if any) of such persons, or for the general maintenance of the farm or other place as aforesaid, or in aid of such persons to reach their friends

friends (if any) or any place to which it may be deemed advisable to send them.

10. Sub-section two, of section four hundred and thirty-eight of the said Act is hereby repealed, and the following substituted in lieu thereof: Sec. 438, sub-a.
2 repealed.

(2) For committing and sending, with or without hard labour, to the Workhouse, or House of Correction, or to the Industrial Farm, House of Industry, House of Refuge, or House for the Poor, Aged, and Infirm, or lock-up, or at any work or service for the said municipality as aforesaid, by the mayor, police magistrate, or justice of the peace, while having jurisdiction in the municipality, such disorderly persons, drunkards, vagrants, indigent persons, and such description of persons as are set forth or referred to in section three hundred and sixty-nine of the Act thirty-six Victoria, chapter forty-eight, and as may by the council be deemed, and by by-law be declared, expedient; and such Farm, House of Correction, House of Industry, House of Refuge, or House for the Poor, Aged, or Infirm, lock-up house, or ground held as aforesaid, shall, for the purposes in this sub-section mentioned, be deemed to be within the municipality and the jurisdiction thereof. Who liable to
be sent to in-
dustrial farm,
etc.

11. Sub-section fifteen of section four hundred and sixty-six of the said Act is hereby repealed, and the following substituted in lieu thereof: Sec. 466, sub-a.
15 repealed.

(15) For preventing and abating public nuisances, and for preventing common begging or persons in the street from importuning others for help or aid in money, or deformed, or malformed, or diseased persons, from exposing themselves, or being exposed in the public streets to excite sympathy or induce help or assistance from general or public charity. Prevention of
nuisances,
begging, etc.

12. Sub-section seventeen of the said section four hundred and sixty-six is hereby amended, by adding at the end thereof the words "including the keeping of cattle and pigs or swine, and cattle, or cow byres and piggeries." Sec. 466, sub-a.
17, amended.

13. Sub-section thirty-two of the said section four hundred and sixty-six is hereby repealed, and the following substituted in lieu thereof: Sec. 466, sub-a.
32 repealed.

(32) For regulating the construction of chimneys as to dimensions and otherwise, and for enforcing the proper cleaning of the same, and for compelling manufacturers and others to have such chimneys or other apparatus as shall consume the smoke or prevent the same from fouling the atmosphere or being carried by the wind or otherwise to other shops, houses, or premises, to the inconvenience or injury of the neighbouring premises or residents therein. Regulating
construction,
etc., of
chimneys.

Sec. 466,
amended.

14. The said section four hundred and sixty-six is amended by adding thereto as sub-sections fifty-six and fifty-seven the following :—

(56) For regulating the erection and maintenance of telegraph and telephone poles and wires within their limits ;

(57) For preventing children from riding on the platform of cars or behind waggons and other vehicles, and for preventing accidents arising from such causes.

Municipality
and officers
thereof pro-
tected from
actions arising
from mistakes
in opening
road allow-
ances.

15. In case it appears that any municipality in whose jurisdiction an original road, or allowance for road is situate, shall open that which they take and believe to be the true site of the same, and in case the municipality, their officers and servants, shall act in good faith, and shall take all reasonable means to inform themselves of the correctness of their line and work, and in case it appears that the road being opened, although not or not altogether upon the true line of the original road, or allowance for road, is nevertheless, from any difficulty in discovering correctly the true line, as near to or as nearly upon the true line as under the circumstances could then be ascertained, no action shall be brought by any person against the municipality, their officers or servants, for or in respect of the opening of such road, or allowance for road, or for any other act or matter whatsoever connected with or arising from the same.

Municipality
to make com-
pensation.

16. The municipality shall, however, in any case respecting the opening of an original road, or road allowance, make to any person having title to or interest in the same, reasonable compensation in full of all claims, and as a final settlement of the same : Provided the claims for such compensation shall be made within one year from the time of the laying out or taking possession of such road by the municipality or its officers, or the part thereof in respect of which compensation is claimed, and in the event of the parties not agreeing as to the amount or terms of such compensation, the same shall be ascertained and the payment thereof enforced, under the provisions of the municipal Act relating to arbitrations.

Sec. 525, sub-s.
2, amended.

17. Sub-section two of section five hundred and twenty-five of the said Act is hereby amended, by inserting after the word "up," in the first line of the said sub-section, the words "leasing or," and by striking out the word "and" in the said first line."

Sec. 526,
amended.

18. Section five hundred and twenty-six of the said Act is hereby amended by adding after the word "sell" in the second line, the words "or lease."

19. Sub-section two of the said section five hundred and twenty-six is amended, by adding after the word "sale" in the first line thereof, the words "or lease." Sec. 526, sub-a. 2, amended.

20. Sub-section three of the said section is amended by adding after the word "conveyance" in the first line thereof, the words "or lease," and by adding after the words "purchaser or purchasers" the words "lessee or lessees." Sec. 526, sub-a. 3, amended.

21. Section five hundred and thirty-one of the Municipal Act, as amended by section twenty-seven of the Municipal Amendment Act of 1879, is further amended by adding thereto the following :— Sec. 531 (42 Vic., c. 31, s. 27) amended.

"Or the said council may, at their option, instead of such publication in a newspaper, by resolution direct that a copy of such by-law and notice, written or printed, or partly written and partly printed, be served upon each of the several owners, their lessees or occupants, or upon the agent or agents of such owners, or left at their places of residence with some grown up member of the family, or where the land is unoccupied and the owner or owners, or their agent or agents, do not reside within the municipality, may cause to be sent by registered letter to the last known address of such owner or owners, a copy of such by-law and notice, and the said by-law shall not be finally passed until after the expiration of three weeks from the last of such services, and the clerk shall keep on file in his office a statutory declaration or declarations by the party or parties making such service or services, and the manner in which the same were effected."

22. Section five hundred and forty-four, of the said Act is hereby repealed, and the following substituted therefor : Sec. 544 repealed.

544. If a drain already constructed, or hereafter constructed by a municipality, is used as an outlet by another municipality, company, or individual, or if any municipality, company or individual, by any means cause waters to flow upon and injure the lands of another municipality, company, or individual, the municipality, company, or individual using such drain as an outlet, or otherwise, or causing waters to flow upon and injure such lands, may be assessed in such proportion and amount as may be ascertained by the engineer, surveyor, or arbitrators, under the formalities provided in the foregoing sections, for the construction and maintenance of such drain so used as an outlet as aforesaid; or for the construction and maintenance of such drain or drains as may be necessary for conveying from such lands the waters so caused to flow upon and injure the same. Drain used by another municipality.

23. Section twenty-four of chapter thirty-one of the Acts passed in the forty-second year of Her Majesty's reign is hereby 42 Vic., c. 31, s. 24, repealed.

by

by repealed, and the provisions of the Municipal Act, chapter one hundred and seventy-four of the Revised Statutes, affected by the said enactment shall be revived and stand as if the said section had not been passed; but this section shall not affect or apply to any city in which by the special Act of incorporation thereof, provision is made for the appointment, control and management of the police by the council.

Superannua-
tion and bene-
fit funds for
fire and police
force in cities
and towns.

24. It shall and may be lawful for the councils of cities and towns having established police forces and fire brigades to pass by-laws for aiding and assisting by annual money grant or otherwise, as they may deem expedient, the establishment and maintenance of superannuation and benefit funds for the benefit of the members of such police force and fire brigades, and of their families respectively.

Tender of com-
pensation in
actions for
negligence.

25. It shall and may be lawful for the council of any city, town, incorporated village, county or township, upon any claim being made or action brought against any such municipality for damages for alleged negligence on the part of such municipality, to make tender, or pay into court, as the case may be, such amount as they may consider proper compensation for the damage sustained, and in the event of the non-acceptance by the claimant of such tender or the amount paid into court, and the action being proceeded with, and a verdict being obtained for a less amount than the amount so tendered or paid into court, the costs of suit shall be awarded to the defendants, and set off against any verdict which shall have been obtained against them.

Sec. 551, sub-
s. 2, amended.

26. Sub-section two of section five hundred and fifty-one of the Municipal Act is hereby amended by striking out the words "by an annual rate in the dollar on the real property so benefited according to the value thereof, exclusive of improvements," occurring at the end thereof, and substituting in lieu thereof the words: "by means of an annual special rate on the real property so benefited according to the frontage thereof": Provided, nevertheless, that no council shall pass any by-law pursuant to any petition presented to such council before the passing of this Act, such petition having been duly signed under the provisions of sections five hundred and fifty-one and five hundred and fifty-two of the Municipal Act as amended by the Act passed by the Legislature of this Province in the forty-third year of the reign of Her Majesty, chaptered twenty-seven, until after one month shall have elapsed from the passing of this Act, and then only subject to the following conditions, that is to say: Any owner or owners who may have signed any such petition shall be at liberty to withdraw his or their name or names, from any such petition within the time limited as aforesaid by notice in writing to the council, or by presenting to such council a counter petition in that behalf; but, nevertheless, any owner or owners of real property which will be di-
rectly

rectly benefited by and assessable for the proposed improvement, and who may not have signed the petition therefor may, within three months from the passing of this Act, require their names to be added to such petition for such improvement, by supplementary petition presented to such council in that behalf; and if, after removing from such original petition the names of owners, if any, who shall have signed any such counter petition, or given any such notice in writing, and adding thereto the names of owners, if any, who shall have signed any such supplementary petition, there shall remain the names of at least two-thirds in number of the owners representing one-half in value of such real property so to be benefited and assessed as aforesaid, such council may pass such by-law subject to the provisions of the Municipal Act so amended as aforesaid, and of the provisions of this Act.

27. Where any debentures have heretofore been issued by any municipality under any by-law passed by such municipality, and the interest on such debentures and the principal of such thereof (if any) as shall heretofore have fallen due, has been heretofore paid for the period of two years or more, by the municipality, such by-law and the debentures issued thereunder, or such thereof as may yet be unpaid, shall be valid and binding upon the corporation, and shall not be quashed or set aside on any ground whatever: Provided, that this clause shall not affect any by-law, debenture, or debt which is the subject of any action or proceeding now pending and brought to quash or set aside such by-law or debenture, or any by-law or debenture, the validity of which is questioned in any suit or proceeding now pending, to which the corporation issuing the same is a party.

Debentures heretofore issued, on which payment has been made for two years, to be good and valid. Proviso.

28. Every by-law passed by any municipality for contracting any debt, by the issue of debentures for a longer term than one year, and for levying rates for the payment of such debts, on the ratable property of the municipality, or any part thereof, shall be registered by the clerk of such municipality, if a county, in the registry office for the county in which the county town is situate, or in case of local municipalities in the registry office of the registration division in which the local municipality is situate, within two weeks after the final passing thereof by such municipality; and every such by-law so registered and the debentures issued thereunder, shall be absolutely valid and binding upon such municipality, according to the terms thereof, and shall not be quashed or set aside on any ground whatever, unless an application or suit to quash or set aside the same be made to some court of competent jurisdiction within three months from the registry thereof, and a certificate under the hand and seal of the clerk of the said court, stating that such suit or proceeding has been brought or application made shall have been registered in said registry office within such period of three months: Provided, that if such suit or proceeding be

By-laws creating debts to be registered.

be dismissed, in whole or in part, then the said by-law or so much thereof as is not the subject of said application, or not quashed upon such application, shall be absolutely valid and binding, according to the terms thereof, on the expiration of three months from the date of the registration of such by-law; upon the dismissal of any such suit or proceeding, a certificate to that effect may be registered in the said registry office:

Publication of
notice.

Provided further that notice of the passing of every by-law to which this section refers, and which has not been submitted to the ratepayers, shall immediately after the registration of such by-law be published in some public newspaper, published either within the municipality, or in the county town, or in a public newspaper in an adjoining local municipality, as the council may by resolution designate, and the publication shall, for the purpose aforesaid, be continued in at least one number of such paper each week, for three successive weeks; but nothing herein contained shall make it obligatory upon any city, town, or incorporated village to register any by-laws providing for the issue of debentures passed under the provisions of the Municipal Act relating to local improvements, but the same may be so registered at the option of the municipality.

Form of
notice.

29. The notice required to be published by the foregoing section, shall be in the form following or to the like effect:

Notice is hereby given that a by-law was passed by the
of of on the
day of A.D., 18 , providing for the issue of
debentures to the amount of \$ for
the purpose of and that such by-law was
registered in the registry office of the county
of on the day of
A.D., 18

Any motion to quash or set aside the same or any part thereof must be made within three months from the date of registration and cannot be made thereafter.

Dated the day of 18

Clerk.

Manner of
registration.

30. Said by-laws shall be registered in the way and manner provided by the Revised Statutes of Ontario, chapter one hundred and seventy-six, and the registrar shall be paid the sum of two dollars for registration thereof.

Form of cer-
tificate of
pending suit.

31. The certificate first referred to, in the second section hereof, shall be in the form or to the effect following:—

In the (*name of court*)

This is to certify that in a certain suit or proceeding in this
court, entitled the validity of by-law No.
of the entitled a by-law
has

has been called in question (*if a portion only of the by-law is called in question, state the fact*).

Dated,

(Signed), A. B.
Clerk of

{ Seal. }

And the certificate of dismissal of such suit or proceeding shall be in the form or to the effect following:—

Form of certificate of dismissal of suit.

In the (*name of court*)

I hereby certify that the suit or proceeding in this court, entitled *calling in question the validity of* by-law No. *of the* has been dismissed (*or if dismissed in part and granted in part, set out the order made, verbatim*).

Dated,

(Signed,) A. B.
Clerk of

{ Seal. }

And the registrar shall be entitled to the sum of fifty cents for registering either of said certificates.

32. Section three hundred and twenty of the Municipal Act is hereby repealed and the following substituted therefor:—

R. S. O., c. 174, s. 320, repealed.

The notice to be appended to every copy of the by-law for the purpose aforesaid shall be to the effect following:—

Notice of promulgation of by-laws.

Notice.—The above is a true copy of a by-law passed by the municipal council of the

of
on the *day of* A.D. 18
and approved by His Honour, the Lieutenant Governor in Council, on the *day of* A.D. 18

(*where such approval is required to give effect to such by-law*): And all persons are hereby required to take notice that any one desirous of applying to have such by-law, or any part thereof, quashed, must make his application for that purpose to one of her Majesty's superior courts of common law, at Toronto, within two months next after the publication of this notice once a week for three successive weeks, in the newspaper called the *or he will be too late to be heard in that behalf*.

33. Section three hundred and twenty-one of the said Act is hereby amended, by striking out the words, "before the end of the term," in the second line, and substituting therefor the words, "within two months."

Sec. 321 amended.

34. Section three hundred and eighty-eight of the said Act is hereby amended, by striking out all the words after "said by-law," in the seventh line, and substituting the following, "has

Sec. 388 amended.

"has received the assent of the electors where necessary, and that no successful application has been made to quash the same within the time limited in the notice of promulgation."

Limitation as to sale or lease of market fees.

35. No municipality shall make any sale, assignment or lease of its market fees for a period longer than the first day of April, 1882, unless and until hereafter empowered so to do by this Legislature.

Inconsistent enactments repealed.

36. All Acts or parts of Acts inconsistent with this Act are hereby repealed.

Act to be read with R. S. O., c. 174.

37. This Act shall be read with and as part of the said Municipal Act.

CHAPTER 25.

The Assessment Amendment Act, 1881.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

R.S.O., c. 180, s. 12, amended.

Births and deaths to be entered on assessment roll.

1. Section twelve of the Assessment Act (chapter one hundred and eighty of the Revised Statutes of Ontario,) is hereby amended as follows, viz.: There shall be added to the assessment roll for every township three additional columns immediately after column twenty-six, to be headed respectively, "Birth," "Death," "Registered," and to be numbered twenty-seven, twenty-eight and twenty-nine, and it shall be the duty of the assessor or assessors when making the annual assessment to inquire of each resident taxable party whether there has been a birth or death in the family within the previous twelve months, and if either, whether the same has been registered or not; if it has not been registered the assessor shall put the figure 1 opposite the name in the column headed "Birth" or "Death," as the case may be; if registered, the letter "R" in the column (twenty-nine) set apart for "Registered." If any assessor refuses or neglects to comply with the requirements of this section, upon conviction thereof before any court of competent jurisdiction, he shall be subject to the penalty imposed by section one hundred and eighty-nine of the Assessment Act. This section shall take effect from and after the first day of January next.

Sec. 45, (43 Vic., c. 27, s. 20,) amended.

2. Section forty-five of the said Act as amended by section twenty of chapter twenty-seven of the Acts passed in the

the forty-third year of Her Majesty's reign, is amended by inserting the word "townships" after the word "towns," in the first line of the said section.

3. Sub-section fifteen of section fifty-six of the said Act is amended by adding the following:—"And in all cases which come before the said court, it may increase the assessment or change it by assessing the right person, the clerk giving the latter or his agent four days' notice of such assessment, within which time he must appeal to said court if he objects to such assessment."

Sec. 56, sub-a.
15, amended.

4. Section fifty-six of the said Act is amended by adding thereto the following as sub-section twenty:—

Sec. 56
amended.

(20) In case any person appeals against his assessment upon any ground, the court of revision or the judge of the county court, as the case may be, may re-open the whole question of the assessment, so that omissions or errors in the assessment may be corrected, and the accurate amount for which the assessment should be made be placed on the assessment roll by the court or judge before handing the same over to the clerk of the municipality.

5. Section ninety-three of the said Act is amended by adding thereto the following as sub-section two:—

Sec. 93
amended.

(2) If at any time after demand has been made by the collector as aforesaid, and before the expiry of the fourteen days mentioned in this section, the collector has good reason to believe that any party by whom taxes are payable, is about to remove his goods and chattels out of the municipality before the fourteen days has expired, and makes affidavit to that effect, before the mayor or reeve of the municipality, or before any justice of the peace, such mayor, reeve or justice shall issue a warrant to the collector, authorizing him to levy for the taxes and costs, in the manner provided by this Act, although the fourteen days after demand may not have expired, and such collector may levy accordingly.

Levy of taxes
under war-
rant.

6. The provisions of sections one hundred and one and one hundred and two of the said Act shall not hereafter be held to apply to cities, but the council of every city may, by by-law, fix the times for the return of the collectors' rolls and any enlargements of the same.

In cities the
council may
fix the time
for return of
collectors'
rolls.

7. Section one hundred and seventy-three of the said Act is hereby repealed, and the following substituted therefor:—

Sec. 173 re-
pealed, and
new section
substituted

173. In cases where a new local municipality is formed partly from two or more municipalities situate in different counties, the collection of arrears of taxes due at the time of formation shall

Arrears of
taxes, how
collected
where new
municipality
formed.

shall be made by the treasurer of the county in which the new municipality is situate, if such new municipality is a township or village, or if such new municipality is a town, by the treasurer of such town; and for the purpose of enabling him to make such collection, the treasurer or the treasurers of the other county or counties from which any portion of such new municipality is detached, shall immediately upon the formation thereof, make out lists of the arrears of taxes then due in their respective portions, and transmit the same to the treasurer of the county in which the new municipality is situate, or of the town (as the case may be); and where a new municipality is formed from two or more municipalities situate in any one county, the treasurer shall keep a separate account for such new municipality.

Who may
take proceed-
ings to enforce
collection.

8. The treasurer and warden of the county in which such new municipality, if it be a township or village, is situate, and the treasurer and mayor of such new municipality, if it be a town, shall have power, respectively, to take for the collection of such arrears of taxes all the proceedings which treasurers and wardens, or treasurers and mayors, under this Act, can take for the sale and conveyance of lands in arrears for taxes, and in case the lands in such new municipality have been advertised by the treasurer or treasurers of the county or counties of which such new municipality formed part before its formation, the sale of such lands shall be completed in the same manner as if such new municipality had not been formed.

Proceedings
where return
made to
treasurer
before separ-
ation.

9. Where any municipality or part of a municipality has been or may be hereafter separated from one county and included in another after a return has been made to the treasurer of the county to which it formerly belonged, of lands in arrear for taxes, but such lands have not been advertised for sale by the treasurer of such former county, such treasurer shall return to the treasurer of the county to which such territory belongs a list of all the lands within such territory returned as in arrear for taxes and not advertised; and the treasurer and warden of the county to which the territory belongs shall have power respectively to take all the proceedings which treasurers and wardens under the said Assessment Act can take for the sale and conveyance of lands in arrear for taxes; but in case the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyance of lands previously sold shall be made in like manner.

Collection of
taxes in new
municipalities.

10. In cases where a new county has been or shall be formed in whole or in part from two or more municipalities situate in different counties the collection of non-resident taxes due at the time of formation in respect of lands situate in the new county which have not been advertised for sale shall be made by the treasurer of the new county; and for the purpose of enabling him

him to make such collection, the treasurers of the other counties formerly having jurisdiction over the respective portions of territory included in the new county shall make out lists of the non-resident taxes then due in their respective portions, and transmit the same to the treasurer of the new county.

11. Upon the incorporation of any new town, in any county, the county treasurer shall make out a list of all arrears of taxes then due and unpaid in his books upon lands situate in the newly incorporated town, and transmit the same to the treasurer of the town, who, after receipt of said list, shall have, with the mayor, all the powers possessed by the county treasurer and warden for the collection of such taxes and for enforcement of the same by sale; but in such list the county treasurer shall not include any lot then advertised for sale for taxes.

On incorporation of a town, county treasurer to transmit list of arrears to town treasurer

12. Section ten of the said Act is amended by adding the R. S. O., c. 180, following thereto: "but no assessor or collector shall hold the office of clerk or treasurer." s. 10, amended.

CHAPTER 26.

An Act respecting Snow Fences.

[Assented to 4th March, 1881.]

WHEREAS serious obstruction to winter travel on many of the highways in the Province is caused by the accumulation of snow-drifts, and it is desirable to encourage the construction along the lines of highway of fences designed to obviate such obstructions; Preamble.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The council of every township, city, town or incorporated village shall have power to require any owners or occupiers of lands bordering upon any public highway, to take down, alter, or remove any fence or fences found to cause an accumulation of snow or drift so as to impede or obstruct, the travel on such public highway, or any part thereof, and where such power is exercised they shall make such compensation to such owners or occupants for the taking down, alteration or removal of such fence or fences and for the construction of some other description of fence approved of by the council in lieu of the one so required to be taken down, altered, or removed as may be mutually agreed upon. And if the council

Councils may require owners or occupants of land to remove fences;
Making compensation therefor.

council and the owners or occupants cannot agree, in respect to the compensation to be paid by the council, then the same shall be settled by arbitration in the manner provided by the Municipal Act, and the award so made shall be binding upon all parties.

Power in case of neglect or refusal by owner or occupant to construct fence as directed.

2. In case any such owner or occupant shall refuse or neglect to take down, alter, or remove such fence or fences and to construct such other fence or fences as required by the council, the council may, after the expiration of two months from the time the compensation to be paid by the council has been agreed upon or settled by arbitration, proceed to take down, alter, or remove the old fence and construct the other description of fence which has been approved of by the council, and the amount of all costs and charges thereby incurred by the council over and above the amount of compensation agreed upon or settled by arbitration, may immediately be recovered from such owner or occupier, by action in any division court having jurisdiction in the locality, and the amount of the judgment in favour of the municipality obtained in such court, shall, if not sooner paid, be, by the clerk of the municipality, placed upon the next collector's roll as taxes against the lands upon or along the boundaries of which the said fence is situate, and after being placed upon the collector's roll, shall be collected and treated in all respects as other taxes imposed by by-laws of the municipality. When a tenant or occupant, other than the owner, shall be required to pay the aforesaid sum, or any part thereof, such tenant or occupant may deduct the same, and any costs paid by him, from the rent payable by him, or may otherwise recover the same, unless such tenant or occupant shall have agreed with the landlord to pay the same.

CHAPTER 27.

An Act to give increased efficiency to the laws against illicit liquor selling.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

R. S. O., c.
181, s. 28,
amended.

1. Section twenty-eight of chapter one hundred and eighty-one of the Revised Statutes of Ontario, intituled "The Liquor License Act," is hereby amended by adding thereto the following as sub-section (3):

(3)

(3) Upon receipt by the inspector of an application for a Provisional transfer of a license, and pending the consideration and consent thereto by the board of commissioners as in the said section is mentioned, the inspector may within one month thereafter issue to the proposed transferee a written provisional consent in the form "Schedule M" to this Act annexed, under which such proposed transferee may exercise the rights granted by the license issued to the premises until the written consent of the board of commissioners may be obtained: Provided always that such written consent shall not operate or extend beyond one month from the time of the death of the original licensee or from the sale or transfer by the licensee or by operation of law; and provided further that such provisional consent shall not have any force or effect, unless the same be countersigned by one member of the board of license commissioners.

2. Section thirty-one of the said Liquor License Act is amended as follows:—

Sub-section four, of section thirty-one, of the Liquor License Act is repealed, and the following shall be sub-sections four, five and six of said section thirty-one:—

- | | | |
|--|---------|-----------|
| (4) For each beer and wine license in cities | \$50 00 | Fees for |
| " " " towns | 40 00 | licenses. |
| " " " other munici- | | |
| palities | 30 00 | |
- (5) For each license (other than a beer and wine license),
for a vessel navigating any of the great lakes or
the rivers St. Lawrence or Ottawa 100 00
For each beer and wine license for any such vessel.. 50 00
For each license (other than a beer or wine license),
for a vessel navigating the inland waters of the
Province, other than as aforesaid 60 00
For each beer and wine license for any such last-
mentioned vessel 30 00
- (6) For every transfer or removal of a license under sections
twenty-eight and twenty-nine of this Act, five dollars,
and the mileage of the inspector, as provided by section
eighteen of this Act.

3. Section thirty-four of the said Liquor License Act is amended by inserting after the word "licenses" in the second line the following: "and for transfers and removals thereof."

4. Section forty-two of the said Liquor License Act is amended by striking out the words "twelve ounces," where they occur in the fifth and sixth lines thereof, and by substituting therefor the words "six ounces", but this section shall not apply to "methylated alcohol," or oil of whiskey or other medicines for cattle and horses, and shall not come into force until the first of July next.

Sec. 51
amended.

Penalty for
second and
third offences.

5. Section fifty-one of the said Liquor License Act is amended by striking out all the words thereof after the words "besides costs" in the eighth line thereof, and by substituting therefor the following: "and for the second offence on conviction thereof, such person shall forfeit and pay a penalty of not less than forty dollars, besides costs, and not more than sixty dollars, besides costs, and in default of payment thereof he shall be imprisoned in the county gaol of the county in which the offence was committed, for a period not exceeding two calendar months; and to be kept at hard labour, in the discretion of the police magistrate or other convicting justice; and for the third or subsequent offence, on conviction thereof, such person shall be imprisoned in such gaol for the period of three calendar months; to be kept at hard labour in the discretion of the police magistrate or other convicting justice; and in the event of the imprisonment of any person upon several warrants of commitment under different convictions in pursuance of this Act, whether issued in default of distress for a penalty or otherwise, the terms of imprisonment under such warrants shall be consecutive and not concurrent."

Sec. 53
amended.

6. Section fifty-three of the said Liquor License Act is amended by inserting the words "or without costs" after the word "complainant" in the eleventh line of said section.

Sec. 77
amended.

7. Section seventy-seven of the said Liquor License Act is amended by striking out all the words after the word "offence" in the tenth line thereof, and inserting instead the following: "and no greater penalty or punishment is imposed than is authorized by this Act."

Sec. 83
amended.

8. Section eighty-three of the said Liquor License Act is amended by adding thereto the following sub-section:—

Person selling
as well as
"occupant"
to be liable.

(2) The person actually selling, or otherwise contravening any of the provisions of this Act, as in this section mentioned, is for the purposes hereof styled "the actual offender," whether acting on behalf of himself or of another or others, and the actual offender, as well as the occupant, shall be personally liable to the penalties and punishments prescribed by the fifty-first and fifty-second sections of this Act, and at the prosecutor's option the actual offender may be prosecuted jointly with, or separately from the occupant, but both of them shall not be convicted of the same offence, and the conviction of one of them shall be a bar to the conviction of the other of them therefor.

Seizure of
liquor found
on unlicensed
premises.

9. When any inspector, policeman, constable or officer in making or attempting to make any search under or in pursuance of the authority conferred by sections ninety-five and ninety-six of the said Liquor License Act, or under the warrant mentioned in the last named section, finds in an unlicensed house or place, any spirituous or fermented liquor which in his opinion is unlawfully kept for sale or disposal
contrary

contrary to the said Act, he may forthwith seize and remove the same, and the vessels in which the same is kept, and upon the conviction of the occupant of such house or place, or of any other person, for keeping spirituous or fermented liquor for sale in such house or place without license, the police magistrate or justices making such conviction, may in and by the said conviction, or by a separate or subsequent order, declare the said liquor and vessels, or any part thereof, to be forfeited to Her Majesty, and may order and direct that the said inspector, policeman, constable or officer shall destroy the same or any part thereof, and the inspector or other person as aforesaid shall thereupon forthwith destroy the same or part thereof as directed by such conviction or order.

10. If the occupant or other person as aforesaid be not convicted of keeping the said liquor or any part thereof for sale as aforesaid the said inspector or other person so seizing the said liquor as aforesaid, shall return the same to the place where such seizure was made; the inspector, or other person acting with him, or by or under his directions, and the policeman, constable or other officer acting under the said Liquor License Act or under this Act shall be a public officer within the meaning of chapter seventy-three of the Revised Statutes for the purposes of this Act and the Liquor License Act.

If no conviction liquor shall be returned.

11. The sixth section of the fourteenth chapter of the Act 41 Vic., c. 14, passed in the forty-first year of Her Majesty's reign, intituled a. 6, amended. "An Act to amend the License Act, and for other purposes," is amended, by inserting the words "or the second part of The Canada Temperance Act, 1878," after the word "Ontario," in the third line thereof and after the word "Ontario," in the sixth line thereof; and the words "or under The Canada Temperance Act, 1878," after the word "Ontario," in the twelfth line of the said section; there shall be added to the said sixth section, at the end thereof, the following words: "whether the license fund is sufficient or otherwise."

12. The eighth section of the said fourteenth chapter is amended, by inserting the words "or under the Canada Temperance Act, 1878, or The Temperance Act of 1864" after the word "Ontario," in the fourth line of the said section; and there shall be added to the said eighth section the following words: "The fees chargeable by the clerk of the peace upon any appeal under the said Liquor License Act, or under this Act, shall not exceed the sum of two dollars."

Sec. 8 amended.

13. All of the provisions of sections one hundred and four, one hundred and five, one hundred and six, and one hundred and seven of the Revised Statutes of Ontario, chapter one hundred and eighty-one, as varied by this Act, shall be applicable to municipalities in which the second part of The Canada Temperance Act, 1878, is in force, and the said sections are hereby amended,

R. S. O., s. 181, ss. 104-107, amended.

amended, by inserting the words "or the second part of The Canada Temperance Act, 1878," after the words "The Temperance Act of Ontario," wherever they appear in the said sections.

Municipal councils may aid in enforcing the Canada Temperance Act, 1878.

14. The council of any county, city, town, township, or village in which the second part of The Canada Temperance Act, 1878, is in force, may, from time to time, set apart any sum or sums of money for the purpose of paying any officer or officers, person or persons, for enforcing, or assisting to enforce The Canada Temperance Act, 1878, within their respective jurisdictions, and for the payment of any costs or expenses incurred in and about enforcing, or attempting to enforce the same; and such councils are hereby authorized and empowered to appoint one or more officers or persons to enforce, or assist in enforcing, the provisions of the said Act, and to pass by-laws for the government and control of such officers or persons, and defining their duties, and mode and amount of payment.

Duties payable for licenses issued under sec. 93, sub. sec. 4, C. T. A., 1878.

15. The following license duties for licenses issued under and in pursuance of sub-section four, of section ninety-nine, of The Canada Temperance Act, 1878, shall hereafter be payable: for each druggist's or shop license in townships, fifteen dollars; for each druggist's or shop license in towns twenty dollars; for each druggist's or shop license in cities, thirty dollars. Wherever said Act applies, in case druggists' or shop licenses for villages are issued, the duty on every such license shall be the same as for a township license.

Application of license fund.

16. All sums received from duties on such druggists' or shop licenses and for wholesale licenses, issued in municipalities in which The Canada Temperance Act, 1878, is in force, shall form the license fund of the city, county or license district respectively in which the said The Canada Temperance Act, 1878, shall be in force, and shall be applied under regulations of the Lieutenant-Governor in Council, towards payment of the salary and expenses of the inspector, and for the expenses of the office of the board of commissioners and of officers, and otherwise in carrying the provisions of The Canada Temperance Act, 1878, into effect, and the residue (if any) on the thirtieth day of June in each year, and at such other times as may be prescribed by the regulations of the Lieutenant-Governor in Council shall be paid to the treasurer of the Province, to and for the use of the Province.

Appeal allowed in certain cases.

17. An appeal to the court of appeal shall lie from any judgment or decision of any of the superior courts, or any Judge thereof, upon any application to quash a conviction made under chapter one hundred and eight-one of the Revised Statutes of Ontario, or under this Act, or to discharge a prisoner who is held in custody under any such conviction, whether such conviction is quashed, or the prisoner discharged, or the application

application is refused; but no such appeal shall lie from the judgment or decree of a single judge, or from the judgment or decree of the court, if the court is unanimous, unless in either case the Attorney-General for Ontario shall certify that he is of opinion that the point in dispute is of sufficient importance to justify the case being appealed; upon such certificate being produced to the clerk of the court in which the judgment or decision proposed to be appealed from has been given, the said clerk shall certify, under the seal of the court the proceedings returned to or had before or in the said court, unto the court of appeal, and the said court shall thereupon hear and determine the said appeal, without any formal pleadings, and shall give such order for carrying into effect the judgment of the said court as the circumstances of the case may require.

18. Where the inspector is required, in the case of an application for leave to transfer or remove a license, to make an inspection, under sections twenty-eight and twenty-nine of this Act, and to travel, in order to make such inspection, a distance of more than three miles from his office or residence, the person making such application for a transfer or removal, shall pay to the inspector, in addition to all other fees, the sum of ten cents per mile, one way, for his travelling expenses, and the same shall be deposited by the inspector to the credit of the license fund; but the inspector may be allowed the same, or so much thereof as is necessary to pay the actual cost of his travelling expenses in order to make such inspection, upon his accounts being rendered and approved in the ordinary manner; this clause shall not apply to city license districts.

Mileage to be paid inspector in certain cases.

19. Upon application to any board of license commissioners, before the first day of May in any year, by any one or more persons within any municipality within the jurisdiction of such board for a beer and wine license, the board may by resolution declare that any one or more of the tavern licenses which may be lawfully issued, and which are to be issued for the license year beginning on the first day of May of such year, not exceeding the number so applied for, may be beer and wine licenses, and the board may thereafter cause beer and wine licenses to be issued in any such municipality, not exceeding the number mentioned in their aforesaid resolution: Provided, nevertheless, that nothing in any such resolution contained, shall so limit the number of tavern or shop licenses, as to prohibit within any municipality the sale of spirituous liquors: And, provided, also, that nothing in such beer and wine license contained, or by reason of the granting thereof, shall authorize the holder thereof, his servants or agents, to sell, barter or otherwise dispose of any kind of intoxicating liquors other than those mentioned in the said beer and wine license.

Beer and wine licenses may be issued.

20. A beer and wine license shall be construed to mean a tavern-license for selling, bartering or trafficking, by retail, in

Liquors to be sold by holder of beer and lager wine license.

lager beer, ale, beer, and porter and also in native wines, manufactured in Ontario, from grapes grown in Ontario, containing not more than fifteen per cent. of alcohol, in quantities of less than one quart, which may be drunk in the inn, ale or beer-house, or other house of public entertainment in which the same is sold.

Holder of beer and wine license subject to conditions of tavern license.

21. The holder of any such beer and wine license shall hold the same upon the terms and subject to all the conditions and penalties that apply to the holder of a tavern license; but, nevertheless, such holder of a beer and wine license shall not sell, barter or give, or keep in the house, or upon the premises for which such last mentioned license has been granted, any spirituous or intoxicating liquors for sale other than those thereby authorized; and as to such other liquors, the holder of such beer and wine license shall be deemed to be unlicensed and section nine of this Act shall apply.

Holder of beer and wine license not to sell or keep spirits on premises licensed.

22. If any holder of a beer and wine license, his servants or agents, shall sell or barter, give or keep in the house, or upon the premises, for which a license has been granted, intoxicating liquors other than those mentioned in his license, for sale, or, shall knowingly sell, or barter, give or keep in the house, or upon the premises for which a beer and wine license has been granted, native wine containing a greater quantity of alcohol than fifteen per cent. thereof, he shall be subject to the penalties provided by the fifty-first section of said Liquor License Act, as amended by this Act, and in addition thereto, upon a conviction for a second offence, the board of license commissioners may, by resolution, revoke and cancel his beer and wine license, and in the event of failure on their part so to do, application may be made by any resident of the municipality to the judge of the county court, in the manner prescribed in the sixty-fourth section of the Liquor License Act which shall apply to such application for an order to revoke and cancel said license; and if it appears to such judge that the holder of any such beer and wine license has been twice convicted of having sold or given intoxicating liquors other than those mentioned in the license, or of having kept the same upon or in the licensed premises, for sale, or of having knowingly sold or given native wine containing a greater percentage of alcohol than fifteen per cent. thereof, as hereinbefore mentioned, or of having knowingly kept the same upon or in the licensed premises, then said judge shall make an order revoking and cancelling the said license, and it shall be revoked and cancelled from the date of such order, or from the passing of the aforesaid resolution by the commissioners.

"Three half pints," equivalent to five quarter pints Imperial measure.

23. Wherever the words "three half pints" are mentioned or referred to in the said Liquor License Act, they shall, for the purposes of that Act, where bottled liquor is sold, be held to be equivalent to five quarter pints Imperial measure.

24. The inspector may from time to time take from the liquors kept by a person holding a beer and wine license upon the premises sufficient thereof to determine whether they are of a different kind from those mentioned in the license, or contain more alcohol than is by law allowed.

Inspector may test liquors kept by licensee.

25. It shall be the duty of the board of commissioners of police, and of the chief of police, to enforce the provisions of section ninety-seven of the Liquor License Act, and any officer or policeman convicted of violating the provisions of said section may be summarily dismissed.

Commissioners of police and chief of police to enforce provisions of R.S.O. c. 181, s. 97.

26. Wherever in the said Liquor License Act the words "at hard labour" or "with hard labour" occur, the following words are substituted therefor, namely, "without hard labour or with hard labour, at the discretion of the convicting justices or police magistrate," and the forms G, H, I and J, shall be varied to accord with the sentence imposed by the said magistrate or justices.

Magistrate's discretion as to imposing hard labour on conviction.

27. Any by-law heretofore passed under the provisions of section thirty-two of the said Liquor License Act may, in the year one thousand eight hundred and eighty-one, be varied, amended or repealed, or a new by-law may be passed under the provisions of the said section on or before the fifteenth day of May in the said year.

Repeal of by-laws passed under s. 32.

28. The seventy-fifth section of the said Liquor License Act shall be held to be applicable to the forms appended to this Act.

R. S. O., c. 181, s. 75, to apply to forms under this Act.

29. This Act shall be read with and as part of the said Liquor License Act.

This Act to be read with R. S. O., c. 181.

SCHEDULE K.

Form of Declaration of forfeiture and of Order to destroy Liquor seized.

(Section 9.)

If in conviction, after adjudging penalty or imprisonment, as in Schedule G of Liquor License Act, proceed thus:

"And I [or we] declare the said liquor and vessels in which the same is kept, to wit: two barrels containing beer, three jars containing whiskey, two bottles containing gin, four kegs containing lager-beer, and five bottles containing native wine, [or as the case may be], to be forfeited to Her Majesty, and I [or we] do hereby order and direct that T. D., license inspector of the city of Toronto, [or J. P. W., license inspector of the east riding of the county of York] do forthwith destroy the said liquor and vessels."

Given under my hand and seal the day and year first above mentioned, at, etc. If

If by separate or subsequent Order:

"COUNTY OF YORK, } We, E. F. and G. H., two of Her Majesty's
To Wit: } justices of the peace for the county of
York, [or C. D., police magistrate of the city of Toronto,] hav-
ing on the fifteenth day of March, one thousand eight hundred
and eighty-one, at the township of Scarboro' in said county,
duly convicted X. Y. of having unlawfully kept liquor for sale
without license, do hereby declare the said liquor and vessels in
which the same is kept, to wit:—[*describe the same as above*],
to be forfeited to Her Majesty, and we [or I] do hereby order
and direct that J. P. W., license inspector of the east riding of
the said county, do forthwith destroy the said liquor and
vessels."

Given under our, [or my] hands and seals, this seventeenth
day of March, at the township of Scarboro' in the said county.

E. F. [L.S.]

G. H. [L.S.]

or

C. D. [L.S.]

SCHEDULE L.

*Form for describing offences for selling, giving, or keeping
other liquors by holder of Beer and Wine License.*

(Sections 20 and 21.)

"That X. Y., being the holder of a beer and wine license,
on at did unlawfully sell, [or give, or
keep for sale], other liquor than is authorized by his license,
in the house and upon the premises for which such license
has been granted."

SCHEDULE M.

*Provisional consent to transfer of License by the Inspector,
pending the decision of the Board of Commissioners.*

In pursuance of section twenty-eight, sub-section two of cap.
one hundred and eighty one of the Revised Statutes of Ontario,
and of the "Liquor License Act, of 1881," I hereby con-
sent that the licensee named in the annexed license, his
assigns or legal representatives, may provisionally transfer the
hereunto annexed license, and all his and their interests
therein to

to be held by him subject to all of the provisions of the
said License Acts; the written consent to such transfer by
the board of commissioners, to be hereafter obtained within
the time prescribed by law.

Dated this day of A.D. 188 .

Inspector.

N.B.—This provisional consent shall remain in force for
days from the date thereof, and no longer.
Countersigned,

Commissioner.

CHAPTER

CHAPTER 28.

An Act to prevent the spread of the Yellows among Peach, Nectarine, and other Trees.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. It shall not be lawful for any person to keep any peach, nectarine, or other trees infected with the contagious disease known as the yellows, or to offer for sale or shipment, or to sell or ship any of the fruit thereof; and it shall be the duty of every person, so soon as he becomes aware of the existence of the said disease in any trees or fruit owned by him, to burn the same forthwith.

No infected trees to be kept or fruit sold.

2. When the said disease exists, or there is good reason to believe that it exists, or when there is good reason to apprehend its introduction, any five or more freeholders residing in the same or an adjoining municipality may petition the council thereof to appoint an inspector to prevent the spread or introduction of the said disease.

Petition for appointment of inspector.

3. On receipt of such petition, it shall be the duty of the clerk of the municipality to call a meeting of the council within ten days thereafter, for the consideration of the same; and it shall be the duty of the said council, if satisfied of the truth of the facts stated in the petition, to appoint an inspector for the purpose of carrying out the provisions of this Act and to provide for his remuneration.

On receipt of petition, meeting of council to be called.

4. It shall be the duty of the inspector to examine the peach and nectarine orchards of the municipality once between the middle and end of July, and once between the middle and end of August every year, and he shall keep a correct record of the condition of each orchard and of the time spent in the performance of his duty, which time shall not exceed six days during each period of inspection, and shall, after each such inspection, file the said record with the clerk of the municipality.

Duty of inspector.

5. In case written complaint is made to the inspector that the said disease exists, or that there is good reason to believe that it exists, within the municipality in any locality described in such complaint with reasonable certainty, or that infected trees or fruit are offered for sale or shipment, or have been imported into the municipality, by any person named, such inspector shall without unnecessary delay, proceed to examine the trees or fruit so designated.

Duty of inspector on special complaint.

6.

Notice to persons owning trees.

6. The inspector, if satisfied that the disease has actually infected any tree or fruit, shall affix a distinguishing mark upon each tree so infected, and shall immediately give notice in writing to the owner or occupier of the land whereon the said infected trees are growing, requiring him, within seven days from the receipt of said notice, to burn the trees so marked as hereinbefore directed; and in case of fruit so infected, such notice shall require the person in whose possession it is found to immediately destroy the same.

Penalty.

7. In case any owner or occupier refuses or neglects to destroy such diseased trees or fruit after such examination and notification, he shall, upon conviction, be liable to a fine of not less than five dollars, nor more than twenty dollars, for every such offence.

Recovery of penalties.

8. Every offence against the provisions of this Act shall be punished, and the penalty imposed for each offence shall be recovered and levied, on summary conviction, before any justice of the peace; and all fines collected shall be paid as follows: one-half to the person laying the information or complaint and the residue to the treasurer of the municipality in which the offence is committed for the use of the municipality.

CHAPTER 29.

An Act to amend the Act for the Protection of Insectivorous and other Birds beneficial to Agriculture.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Power to shoot Robin and Cherry Bird for protection of fruit.

1. Notwithstanding anything contained in the Revised Statute respecting the Protection of Insectivorous and other Birds beneficial to Agriculture, chapter two hundred and one, any person may, during the fruit season, for the purpose of protecting his fruit from the attacks of such birds, shoot or destroy, on his own premises, the birds known as the Robin and Cherry Bird, without being liable to any penalty under the said Act.

CHAPTER 30.

An Act for further improving the School Law.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The parent or guardian of every child, not less than seven years nor more than thirteen years of age, is required to cause such child to attend a public school, or any other school in which elementary instruction is given, unless there be some reasonable excuse for non-attendance. Children from 7 to 13 required to attend school.

2. Except as hereinafter provided, the time which any such child is required to attend a public school, is during the whole time in each week for which such school is open for instruction of children, and for the respective periods of eleven weeks in each of the two terms of the public school year. Time of attendance.

3. Any person who receives into his house a child of any other person, under the age of thirteen years, and who is resident with him or in his care or employment, shall be deemed thereby to be subject to the same duty with respect to the elementary education of such child during such residence, and shall be liable to be proceeded against as in the case of a parent, if he should fail to perform his duty of causing such child to be educated to the extent required of a parent; but the duty of the parent under this Act shall not thereby be affected or diminished and shall continue in full force; Duty of persons with whom any child under 13 resides.

(2) In the case of each such child who is employed in any manufactory, one half of the whole time required by this Act in each week for instruction, shall be deemed to be sufficient instruction in such case.

4. A child shall not be required to attend a public school if such child is under efficient elementary instruction in some other manner, or if such child has been prevented attending school by sickness or other unavoidable cause, or if there is no public school which such child can attend within two miles, measured according to the nearest road from the residence of such child, if under the age of nine, and within three miles if over that age. Exceptions.

5. Public school boards and rural school trustees may appoint an officer to ascertain and report to the school board or trustees for their information, any parent or other person who Officer to enforce law may be appointed.

who has failed and omitted and is failing and omitting to perform the duty of providing that each child of his, or in his care or employment, between the ages aforesaid, is attending some school or otherwise being under efficient elementary instruction, and it shall be the duty of such officer to notify, personally or by letter, or otherwise, such parent or other person of his neglect or violation of duty and the consequences thereof.

Notice to be given before taking proceedings for neglect.

6. No proceeding against any parent or other person for any neglect or violation on his part of the requirements of this Act shall be taken until after the expiration of fourteen days from the time in which he has been so notified, nor until such parent or other person has had an opportunity of attending a meeting of the school board or a committee thereof, or of the trustees, to state his or her reasons for not complying with such notice; but if such parent or other person should, on being so notified, either fail to appear or to satisfy the school board, or committee, or trustees, that this neglect or violation of duty has arisen from any of the grounds on which he would be excused, it shall be the duty of the public school board or trustees, through their said officer, to make complaint of such neglect or violation of duty to the police magistrate or a justice of the peace, having jurisdiction under the Act respecting summary convictions before justices of the peace, and such police magistrate and justice shall possess and exercise all the powers conferred by the two hundred and eleventh section of the Public Schools Act.

Proof of age.

7. With respect to proceedings for any offence or penalty under the provisions of this Act, where a child is apparently of the age alleged, for the purposes of such proceeding, it shall lie with the defendant to prove that the child is not of such age.

Assessors to enter on roll children over 16 and under 21, and between 7 and 13.

8. After the first of January next it shall be the duty of every municipal council to cause the assessor of the municipality in preparing the annual assessment roll thereof, to set down therein, in separate columns, the number of children whose ages are over sixteen and under twenty-one, and between seven and thirteen, in addition to the column for those over five and under sixteen years.

R. S. O., c. 204, ss. 145, 78, 241, 194, amended.

9. The following sections of the Public Schools Act, are hereby respectively amended, that is to say, the one hundred and forty-fifth in the first line thereof, so as to read, "at the first election, two fit and proper persons, and at every subsequent election, one fit and proper person," and all existing township boards are hereby confirmed and made legal. The seventy-eighth section is hereby amended in sub-section fourteen, by striking out "thereon," and inserting "upon the formation or alteration of a union school section," and the two hundred and forty-first section by substituting "December" for

for "January," where it twice appears; and the one hundred and ninety-fourth section is hereby amended in sub-section fifteen, by adding thereto, "and the Inspector is further authorized and required, upon the written request of the school board or trustees, to give an order on the treasurer or sub-treasurer in that behalf in favour of such board or trustees for any sum of money payable for teachers' salaries, and due to such board or section, excepting the superannuation money payable half yearly by male teachers, which are to be retained by the Inspector, as payments made by such teachers as are in the employ of board or trustees;"

(2) Section seven of the Act passed in the forty-second year of Her Majesty's reign, respecting Public, Separate and High Schools is hereby amended in sub-section nine, so that the first paragraph thereof, shall read as follows: "The judge of the county court in case any complaint respecting the validity or mode of conducting the election of any trustee of a public school board in any municipality within his county, is made to him within twenty days after such election, shall receive and investigate such complaint, and shall thereupon within a reasonable time in a summary manner hear and determine the same;" 42 Vic., c. 34,
s. 7, sub-s. 9,
amended.

(3) Section twenty-six of the last mentioned Act in sub-section two thereof, is hereby amended by inserting after the word "treasurer" in the fifth line the words "or sub-treasurer," and the following shall be added to the said section. "and the clerk of any municipality in which any separate school section or part of a section is situate, shall, not later than the first day of December in each year, make out and transmit to the county school inspector a statement shewing whether or not any county rate for public school purposes has been placed upon the collector's roll against supporters of separate schools, and if such has been rated against supporters of separate schools, giving a list of such and the amount so rated against each and the total amount so rated, and the county inspector shall in such case, before distributing the county rate among the public school sections, deduct the amount so certified to him by the clerk, and shall give to the trustees of the separate school section an order upon the county treasurer or sub-treasurer for the amount thereof." Sec. 26, sub-s.
2, amended.

10. To remove doubts, it is hereby declared, that in any case when under the eighteenth section of the Assessment Act land is assessed against both the owner and occupant, or owner and tenant, then such occupant or tenant shall be deemed and taken to be the person primarily liable for the payment of school rates and for determining whether such rates shall be applied to public or separate school purposes, and no agreement between the owner or tenant as to the payment of taxes as between themselves shall be allowed to alter or affect this provision otherwise, and in any case where as between the owner Occupant
primarily
liable for school
rate.

owner and tenant or occupant, the owner is not to pay taxes, if by the default of the tenant or occupant to pay the same, the owner is compelled to pay any such school rate, he may direct the same to be applied to either public or separate school purposes.

Aid to
County Model
Schools.

11. It shall be the duty of every county council to provide and levy in each year, in aid of each county model school established in such county, under the regulations of the Education Department, an amount at least equal to the amount apportioned or paid by the Education Department, in support of county model schools out of any grant annually voted by the Legislature for that purpose, but such amount shall not exceed the sum of one hundred and fifty dollars in one year unless the county council should think fit to provide a larger amount of aid;

(2) The Education Department may by regulation, authorize county boards of examiners, to require from teachers in training at the County Model School, a reasonable fee for their instruction.

Unauthorized
text books not
to be substituted
for
authorized
without leave.

12. No teacher shall substitute for any authorized book in actual use in his school, any other text book on the same subject, unless, and until he shall have obtained the written approval of the public school board of trustees, and the public school inspector, to such change; but every such approval must be sanctioned by the Minister of Education, and no such change shall take place until the first day of January which shall occur after the first day of July previous to which such approval and sanction have been obtained; and in case any teacher or other person shall negligently or improperly substitute any text book in place of any authorized text book in actual use upon the same subject in his school, he shall for each such offence, on conviction thereof before a police magistrate or justice of the peace, as the case may be, be liable to a penalty not exceeding ten dollars, payable to the municipality for public school purposes, together with costs, as the police magistrate or justice may think fit.

Certain contracts by
school trustees
to be void.

13. No public or high school trustee shall enter into any contract, agreement, engagement or promise of any kind, either in his own name, or in the name of another, and either alone or jointly with another, or in which he has any pecuniary interest profit or promised or expected benefit, with the corporation of which he is a member, or have any pecuniary claim upon or receive compensation from such corporation for any work engagement, employment, or duty on behalf of such corporation, and every such contract, agreement, engagement or promise shall be null and void, and such trustee shall also *ipso facto*, vacate his seat and a majority of the other trustees may declare the same accordingly.

14.

14. Section twenty-six of "the High Schools Act" is hereby amended by striking out the words, "first meeting to be held after the first day of January" in the fourth and fifth lines thereof, and substituting therefor the words, "last meeting to be held in the month of December." R.S.O., c. 205, s. 26, amended.

CHAPTER 31.

An Act respecting the University and Colleges at Toronto.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The Convocation of the University of Toronto shall consist of the graduates in the several faculties of the University, and each graduate shall be a member of Convocation. Convocation of whom to consist.

2. The register of graduates shall be kept by the Registrar of the University, and shall be open and accessible to members of Convocation during office hours. Register of graduates.

3. The term of office of the Chairman of Convocation shall be for two years. Term of office of Chairman.

4. The election by Convocation of the Chancellor and of members of the Senate shall be subject to the following further provisions: the nomination of candidates to fill any vacancy in the office of Chancellor or vacancies about to occur in the office of member of the Senate upon the expiry of the term thereof shall be made by a nomination paper, limited as to names by the vacancies to be filled, and any member of Convocation is at liberty to send in his nomination paper either severally or jointly with other members, not more than twenty to the Registrar of the University at least four weeks before the closing of the election, which shall take place at noon on the first Wednesday of May in each year, on which day the term of office of members of Senate, elected by Convocation shall be deemed to expire; and the Registrar shall send out the form of voting papers to each member of Convocation with the list of names of all candidates nominated by ten members at least, three weeks before the said day, and in the case of the Chancellor before the time appointed by the Senate for his election, and the voting for members of the Senate shall be limited to such persons as have been so nominated. Election of Chancellor and members of the Senate.

Vacancies in Senate, how filled.

5. In case any vacancy shall occur by the death, resignation or removal from the Province of any member of the Senate elected by Convocation before the expiry of his term of office, the Senate shall thereupon appoint, from amongst the members of Convocation, another member of the Senate for the unexpired period of such term.

Investments to be taken in the name of Bursar.

6. When under any order of the Lieutenant-Governor in Council any part of the endowment of the University of Toronto, University College, or Upper Canada College and Royal Grammar School, is authorized to be invested on the security of freehold lands in this Province, the mortgages or other instruments representing such investments may be made to and taken in the name of the Bursar of the University and Colleges at Toronto in his official character as such, and his successors in office, and the said Bursar and his successors shall have and possess such powers with respect to taking and holding such securities and releasing, discharging or assigning the same under his seal of office as Bursar as from time to time may be assigned to him by any order of the Lieutenant-Governor in Council, under and subject to such regulations, terms and conditions as may be prescribed in such order;

(2) Each and every mortgage security heretofore taken, and in which any part of the property or endowment of the University of Toronto, University College, or Upper Canada College and Royal Grammar School, respectively, is invested, is hereby granted to and vested in the said Bursar and his successors in office, under and subject to the provisions of this Act.

CHAPTER 32.

An Act to make further provision respecting the Central Prison, the Andrew Mercer, Ontario, Reformatory for Females, and the Industrial Refuge for Girls.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Operation of R. S. O., c. 217, ss. 12-14, and 42 Vic., c. 38, ss. 12 and 13, declared.

1. The twelfth, thirteenth and fourteenth sections of the Revised Statute respecting the Central Prison, and the twelfth and thirteenth sections of the Act passed in the forty-second year of Her Majesty's reign intituled "An Act respecting the Andrew Mercer, Ontario, Reformatory for Females," shall be held to extend to persons convicted of offences created under the authority of an Act of the Legislature of this Province, as well

well as to persons convicted of offences directly created by the said Legislature, and to any case where imprisonment is imposed in whole or in part, in default of the payment of a fine or penalty in money, notwithstanding the offender is entitled to be discharged upon payment of such fine or penalty; if the fine or penalty is paid after the removal of the offender to the Central Prison or Reformatory, the same shall be paid to the proper officer of the said Prison or Reformatory, to defray the expense of removal, and otherwise for the use of the said Prison or Reformatory; but nothing herein contained shall affect the right of any private person to the said fine, or any part thereof.

2. Any sheriff or other person having the custody of an offender convicted of an offence punishable by virtue of a statute of this Province, for which such offender has been sentenced to imprisonment in the Central Prison, or the Andrew Mercer, Ontario, Reformatory for Females, may detain the offender, or cause him or her to be detained, in the common gaol of the county or district in which such offender is sentenced, or other place of confinement in which the said offender may be, until a Provincial bailiff or other person lawfully authorized in that behalf requires the delivery of the said offender for the purpose of being conveyed to the Central Prison or Reformatory aforesaid.

Detention of offenders until removal to Central Prison or Reformatory.

3. Where the confinement of any girl in the Industrial Refuge for Girls is directed under the Act passed in the forty-second year of Her Majesty's reign, chaptered thirty-nine, the judge or police magistrate may either by his warrant authorize some female to convey the said girl to the Refuge, or he may give such directions as he considers advisable for the detention of the girl in some proper place of confinement until a female Provincial bailiff, or other person lawfully authorized in that behalf, requires the said girl's delivery for the purpose of being conveyed to the Refuge.

Judge or magistrate may give directions as to removal or detention of girls in certain cases.

4. In case the said judge or police magistrate directs the girl's detention under the next preceding section, he shall cause the superintendent of the said Refuge to be forthwith notified of his action in the said matter: in case a female is employed by the said judge or police magistrate to convey the girl to the Refuge, she shall be entitled to receive from the county or separate town or city the like fees and charges therefor as a constable would receive for similar services.

Notice of detention to be given to superintendent of Refuge.
Fees.

CHAPTER 33.

An Act to amend the Act respecting the Inspection of Asylums, Hospitals, Common Gaols and Reformatories in this Province.

[Assented to 4th March, 1881.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

R. S. O. c.
224, ss. 23 and
24, repealed.

1. The Revised Statute respecting the Inspection of Asylums, Hospitals, Common Gaols, and Reformatories in this Province, chapter two hundred and twenty-four, is hereby amended, by striking out sections twenty-three and twenty-four of the said Act, but the repeal of the said sections shall not affect any existing county which has not received payment thereunder to the extent of the sum therein named.

CHAPTER 34.

An Act relating to the incorporation of the Village of Brockton.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS certain inhabitants and ratepayers of the village of Brockton, in the county of York, by their petition have represented that the by-law contained in the schedule hereto was duly passed by the council of the corporation of the county of York, on the nineteenth day of November, in the year of our Lord, one thousand eight hundred and eighty, and that under section eighty-six of chapter one hundred and seventy-four of the Revised Statutes of Ontario, the first election under the by-law erecting the locality into an incorporated village should take place on the first Monday in January next after the end of three months from the passing of the by-law by which the change was made, and that until such day the change should not go into effect, and that it would be productive of great benefit to the petitioners, that the elections held on the third day of January, in the year of our Lord, one thousand eight hundred and eighty-one, should be confirmed; and have prayed for an Act confirming the same; and whereas it is expedient to grant the prayer of the said petition;

Therefore

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said by-law of the county council of York, a copy of which is set forth in the schedule to this Act marked "A," incorporating the village of Brockton, is hereby confirmed as if the incorporation of the said village had gone into effect on the nineteenth day of November, one thousand eight hundred and eighty, and the territory described in the said by-law is on and after that date to be taken and considered as having been erected into an incorporated village called and to be called the village of Brockton, and the inhabitants thereof as formed into a municipal corporation by the name of the corporation of the village of Brockton. By-law set forth in schedule confirmed.

2. The election of reeve and councillors for the said village of Brockton held under the said by-law, on Monday the third day of January, one thousand eight hundred and eighty-one, is hereby confirmed, notwithstanding any irregularities in holding the same, and notwithstanding the want of qualifications of the electors or of the reeve and councillors elected, and the reeve of the said village of Brockton thus elected shall have a seat in the county council of York for the year one thousand eight hundred and eighty-one. Election of reeve and councillors confirmed.

3. Except as herein specially enacted all the provisions of "The Municipal Act" and of all other general acts in force in the Province of Ontario, relating to municipal institutions, are hereby declared to apply to the said village in the same manner and to the same extent in all respects as if the said village had been incorporated under the provisions of those acts, and such incorporation had taken place upon the said nineteenth day of November aforesaid. Provisions of Municipal law to apply.

4. The expenses incurred in obtaining this Act shall be borne and paid by the corporation of the said village to the parties entitled thereto. Expenses of Act.

SCHEDULE "A."

A BY-LAW, 357,

To provide for the incorporating of the Village of Brockton.

Whereas the census returns of the unincorporated village of Brockton, situate in the township of York in the county of York, with its immediate neighbourhood within the limits hereinafter described, taken under the direction and by the authority of the council of the county of York, as provided by

by the municipal Act, shows that the same contains over seven hundred and fifty inhabitants; and whereas the residences of such inhabitants are sufficiently near to form an incorporated village; and whereas over one hundred resident householders and freeholders of the said village of Brockton and neighbourhood have petitioned that the same may be erected into an incorporated village, over fifty of which are freeholders;

Be it therefore enacted by the council of the corporation of the county of York as follows:

1st. That the said village of Brockton and neighbourhood shall be, and the same is hereby erected into an incorporated village, apart from the said township of York.

2nd. That the name of the said incorporated village shall be and the same is hereby declared to be Brockton.

3rd. The boundaries of the said incorporated village of Brockton shall be and the same are hereby declared as follows, that is to say: Commencing at the intersection of the south-westerly boundary of the right of way of the Grand Trunk Railway with the western limit of Dufferin street, thence northerly along the said westerly limit of Dufferin street six thousand five hundred and eighteen feet, more or less, to the centre line of Bloor street; thence westerly along the said centre line of Bloor street five thousand nine hundred and thirty-one feet, more or less, to the centre line of the Indian Road, produced; thence southerly along the said centre line of the Indian Road four thousand and thirty-three feet, more or less to the intersection of the northerly limit of the village of Parkdale, produced, westerly to the said centre line of the Indian Road; thence easterly along the said produced limit of the village of Parkdale, and along the said limit thereof to the southwesterly limit of the right of way of the Grand Trunk Railway, in all, a distance of three thousand six hundred and ninety three feet, more or less; thence southeasterly along the said southeasterly limit of said right of way of the Grand Trunk Railway three thousand four hundred and seventy feet more or less, to the place of beginning.

4th. That the first election for the said incorporated village for municipal purposes shall be held in Mr. George A. Rosbach's Hall, situate on Dundas street in the said village of Brockton, and that Mr. Patrick Kearns, of the said village, shall be and is hereby appointed returning officer to hold the said first election as the law directs.

Passed Nov. 19th, 1880.

{ L. S. }

(Signed)

JOSEPH STOKES.

Warden.

GEO. EAKIN,
C. C. York.

I,

I, George Eakin, clerk of the county of York, certify that the foregoing is a correct copy of by-law No. 357, passed by the council of the county of York on the 19th day of November, A.D. 1880.

GEORGE EAKIN,
C. C. York.

CHAPTER 35.

An Act to change the name of the Town of Clifton to that of Niagara Falls.

[Assented to 4th March, 1881.]

WHEREAS the corporation of the town of Clifton has, by Preamble. its petition, prayed that the name of the town of Clifton be changed to that of "Niagara Falls," and has by the said petition set forth that great injustice is done to the inhabitants of the said town, who largely depend upon travellers and tourists who visit that locality, owing to the attractions of the Niagara Falls, which are within the limits of the said town, and has further set forth in the said petition, that in consequence of there being another place on the American side of the river called Niagara Falls, many travellers and tourists who intend to visit the Falls are told that they must cross to the American side if they intend going to Niagara Falls; and further, that if the name of Clifton were changed to that of "Niagara Falls," many who otherwise cross the Niagara river to the American side would remain at "Niagara Falls" on the Canada side; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The name of the corporation of the town of Clifton is hereby changed from that of the Town of Clifton to that of the Town of Niagara Falls, and the corporate name of the said town is hereby declared to be "The Corporation of the Town of Niagara Falls." Name of town of Clifton changed to Niagara Falls.

2. Nothing in this Act contained shall in any way affect the validity of any by-law of the said corporation of the town of Clifton, or of any debts, debentures or other obligations of the said corporation, and all rights, powers, debts, duties and obligations of the said corporation of the town of Clifton shall be vested in, assumed by, and be and remain the rights, powers, debts, duties and obligations of the said corporation of the town of Niagara Falls. Rights and obligations of corporation unaffected.

CHAPTER

CHAPTER 36.

An Act to legalize a certain By-Law of the County of Frontenac, and the Sale of the Debentures issued thereunder.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the municipal council of the corporation of the county of Frontenac have, by their petition, represented that doubts have arisen as to the validity of a certain by-law of the said corporation, passed on the fourteenth day of November, in the year of our Lord one thousand eight hundred and seventy-eight, under the authority of an Act passed in the forty-first year of Her Majesty's reign, chaptered thirty-three, and intituled "A by-law to raise by way of loan the sum of two hundred and sixty-two thousand four hundred dollars, pursuant to the statute in that behalf," and as to the validity of the debentures issued thereunder, and as to a certain bargain and sale of said debentures, made by said corporation; and it is expedient and necessary in the interest of the public, and the holders of said debentures, that all such doubts should be removed, and that such by-law, debentures, bargain, and sale should be legalized and confirmed in accordance with the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

By-law 174 of the county of Frontenac, and debentures issued thereunder declared valid.

1. By-law number one hundred and seventy-four of the corporation of the county of Frontenac, passed on the fourteenth day of November, in the year of our Lord, one thousand eight hundred and seventy-eight, intituled "A by-law to raise by way of loan the sum of two hundred and sixty-two thousand four hundred dollars, pursuant to the statute in that behalf hereinafter mentioned," and the debentures issued thereunder, for the sum of two hundred and fifty-seven thousand five hundred dollars, and the bargain entered into and sale of said debentures, made by said corporation, are hereby legalized and declared valid, notwithstanding any irregularity in the passing or form of said by-law, the debentures issued thereunder, or the bargain and sale thereof, or any want of power in said corporation to pass, make, enter into or carry out the same.

CHAPTER 37.

An Act to confirm certain Assessments of the City of Kingston.

[Assented to 4th March, 1881.]

WHEREAS the corporation of the city of Kingston, by ^{Preamble.} their petition, have represented that the council of the said city, desiring to apply the provisions of section forty-four of the Assessment Act to the assessments of the said city, did, on the thirty-first day of May, in the year one thousand eight hundred and eighty, after the assessment for the said year had been duly made at the usual time, for the levy of the rates and taxes of the year one thousand eight hundred and eighty, pass a by-law (set out in schedule A. to this Act) to provide for taking an assessment of the said city, between the first day of July and the thirtieth day of September, in the said year one thousand eight hundred and eighty, to be adopted as the assessment on which the rate of taxation for the year one thousand eight hundred and eighty-one should be levied, and which said last mentioned assessment was duly made, and was duly revised by the court of revision and by the county judge, as provided in said section forty-four and in said by-law, and adopted by the said council as the assessment on which the rate of taxation for the year one thousand eight hundred and eighty-one should be levied; and whereas, by the making of the last mentioned assessment as aforesaid, it has become unnecessary to use the assessment for the year one thousand eight hundred and eighty as the basis for the assessment for the year one thousand eight hundred and eighty-one; and whereas, to remove all doubts as to the validity of their proceedings in the premises, the said petitioners have prayed for an Act to confirm and validate the said by-law and the said assessment made in pursuance thereof, and the revision of the same aforesaid, as well as the future assessments to be made under the said by-law, when duly revised as therein provided; and it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The above recited by-law is hereby declared to be a valid ^{By-law con-} by-law, and is hereby confirmed. ^{firmed.}

2. The assessment of the said city, made under the said ^{Assessment} by-law as aforesaid, and the assessment rolls thereof as finally ^{Roll for 1881} revised, are hereby confirmed and declared valid and binding ^{confirmed.} to all intents and purposes upon the ratepayers of the said city, and all others, and upon the property and land affected thereby, or contained, set out, or described in the said rolls as the assessment and the assessment rolls of the said city for the

the year one thousand eight hundred and eighty-one, and upon which the rates and taxes of the said city for the said last mentioned year shall be levied and collected, and shall also for every other purpose be valid, notwithstanding anything contained in said section forty-four of the Assessment Act, and notwithstanding that the assessment for the year one thousand eight hundred and eighty had been made in the same year previously; and the rates and taxes to be levied upon the said assessment in this section first mentioned, shall be the rates and taxes of the said city for the said year one thousand eight hundred and eighty-one, and shall be collected under the provisions of the Assessment Act in the ordinary manner by the collector or collectors of the city, and no further revision of the said last mentioned assessment shall be necessary.

Future assessments made under by-law to be valid.

3. All future assessments may be made under the said by-law, and shall, each being duly revised as therein provided, be valid and binding as aforesaid as the assessment for the year following the year in which it is made, and on which the rates and taxes of the said city for that year shall be levied and collected, and shall also for every other purpose be valid, and the rates and taxes levied thereon shall be collected under the provisions of the assessment laws in the ordinary manner by the collector or collectors of the city: Provided, always, that but one assessment shall be made for any one year, and that said assessments shall be made under the provisions of the assessment laws in force at the time of making the same, subject to this Act.

SCHEDULE "A."

A by-law to regulate the periods for taking the assessment, and for the revision of the rolls by the court of revision, and by the county judge, in the city of Kingston.

Passed Monday, May 31, 1880.

Whereas the council of the corporation of the city of Kingston may, under section forty-four of the Act entitled "An Act respecting the assessment of property," pass a by-law for regulating the periods for taking the assessment and for the revising of the rolls by the court of revision and by the county judge, and it is desirable that such a by-law should be passed;

Be it therefore enacted by the said council of the corporation of the city of Kingston:—

1. That from and after the passing of this by-law, the assessments in and for the city of Kingston, including an assessment to be made and taken in this present year, shall be made and taken as follows, that is to say:—Between the first day

day of July and the thirtieth day of September in each year; that the rolls shall be returnable to the city clerk on the first day of October in each year; that the time for closing the court of revision shall be the fifteenth day of November in each year, and that the time for final return by the judge of the county court shall be the thirty-first day of December in each year; and the periods for taking said assessment and for the revision of the rolls by the court of revision and by the county judge shall thenceforth be as herein above provided, and not otherwise; and that the assessment to be made and taken in this present year shall be adopted as the assessment on which the rates shall be levied next year, and the assessment so made in each year following the present year shall be the assessment for the rates for the year following the year in which it is so made.

2. That one assessor shall be appointed, according to law, to make the said assessment, who shall have his office in the city buildings, and who shall give his whole time to the discharge of the duties of his said office, and whose salary shall be at the rate of seven hundred dollars per annum, payable monthly.

3. That this by-law shall come in force and take effect on the first day of June, in the year one thousand eight hundred and eighty.

(Sgd.) ROBERT J. CARSON, [L.S.]
Mayor.

(Sgd.) M. FLANAGAN,
City Clerk.

CHAPTER 38.

An Act to close part of a certain road allowance between the Township of Kingston and the Village of Portsmouth.

[Assented to 4th March, 1881.]

WHEREAS that portion of the original allowance for a road Preamble.
forty feet in width, lying between the township of Kingston and the village of Portsmouth, in the county of Frontenac, which lies south of the southerly boundary of Hale street, has never been made fit for travel, and terminating at a bluff, affords no convenient access to the water; and whereas the lands on both sides of the said portion of the said road allowance belong to Her Majesty for the purposes of the asylum for the insane at Kingston, and the said road allowance divides the asylum grounds into two portions, causing great inconvenience in the use of the said asylum grounds, and exposing the patients

tients in the said grounds to annoyance, from persons coming upon the said road allowance for the purpose of gazing upon or interfering with the said patients; and whereas access to the water can be more conveniently had by the inhabitants of the said township and village, by the road running along the front of the first concession of the said township of Kingston; and whereas the Commissioner of Public Works, in order to ensure to the said inhabitants of the said township and village, convenient access to the water, has, on behalf of Her Majesty, agreed to purchase the broken front of lot number fifteen, in the first concession of the said township of Kingston; and whereas it is expedient that the said portion of the said road allowance should be closed;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

• Part of road allowance closed.

§ 1. The portion of the said allowance for road, which is south of the southerly boundary line of Hale street, shall no longer be, or be liable to be, used as a public highway, and such portion shall be hereafter vested in Her Majesty, and her successors, for the public uses of the Province.

Access to water to be provided for public.

§ 2. The Commissioner of Public Works shall set apart so much of the said broken front of lot number fifteen aforesaid, as he finds requisite, and considers expedient to set apart, in order to ensure convenient access to the public, from Front street aforesaid to the waters of Little Cataraqui Bay.

CHAPTER 39.

An Act respecting the Debt of the County of Lennox and Addington, and to enable the said County to consolidate the same.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS, the corporation of the county of Lennox and Addington, have at various times passed certain by-laws authorizing the issue of debentures, and have issued under such by-laws, debentures creating debts to the amount of one hundred and sixty thousand dollars, which said debentures are all now outstanding, and will fall due at various times, and funds have not been provided for redeeming the said outstanding debentures, or paying the said debts; and whereas the said corporation of the county of Lennox and Addington have petitioned to be authorized to consolidate the said debts of one hundred and sixty thousand dollars, and to discharge the said indebtedness, by the issue of new debentures to that amount; and

and whereas, it is expedient to grant the prayer of the said petition ;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. The said debenture debts of the corporation of the county of Lennox and Addington, are hereby consolidated at the sum of one hundred and sixty thousand dollars, and it shall and may be lawful to and for the said corporation of the county of Lennox and Addington, to raise by way of loan upon the credit of the debentures hereinafter mentioned, and by this Act authorized to be issued, from any person or persons, body or bodies corporate, either in this Province, in Great Britain or elsewhere, who may be willing to lend the same, a sum of money not exceeding one hundred and sixty thousand dollars of the lawful money of Canada. Debts consolidated at the sum of \$160,000.

2. It shall and may be lawful for the said corporation of the county of Lennox and Addington, to pass a by-law or by-laws, authorizing the said loan of one hundred and sixty thousand dollars, and the issuing of the debentures therefor, in accordance with this Act, and to impose in and by said by-law or by-laws, a special rate per annum, on the whole ratable property of the said municipality, to be called "The Consolidated Loan Rate," over and above, and in addition to all other rates to be levied in each year, which shall be duly levied in each year, and shall be sufficient to pay the sums falling due annually, for interest, and to provide a fund for the due payment of the principal, when the same shall fall due, of the said debentures last mentioned. Authority to pass by-law for new debentures.

3. It shall not be necessary to obtain the assent of the electors of the said county to the passing of any by-law under this Act, or to observe the formalities in relation thereto, prescribed by "The Municipal Act." Assent of electors to by-law not required.

4. It shall and may be lawful for the municipal council of the said corporation of the county of Lennox and Addington, after the passing of such by-law or by-laws, authorizing the same, in accordance with this Act, to cause to be issued debentures of the said corporation, under the corporate seal, signed by the warden and countersigned by the treasurer and clerk of the said county, for the time being, for such sums not exceeding in the whole the said sum of one hundred and sixty thousand dollars, as the said council shall direct and appoint, bearing interest at a rate not to exceed six per centum per annum, payable half-yearly. Debentures may be issued to the amount of \$160,000.

5. The principal sum to be secured by the debentures to be issued under the preceding sections of this Act shall be payable either in sterling or currency, and the same with the interest accruing Debentures, when and how payable.

accruing thereon, may be made payable either in this Province, in Great Britain or elsewhere, as the said council may, by the by-law or by-laws direct or shall deem expedient; and a portion of the said debentures issued under any such by-law shall be made payable in each year for thirty years, from the time at which the by-law authorizing the issue of the same shall take effect, and so that the sums to be levied for principal and interest shall be as nearly equal in each year as may be, and it shall not be necessary to levy for or provide any sinking fund to retire the said debentures.

Application
of proceeds.

6. The funds derived from the negotiation and sale of the said debentures, shall be applied in and to the payment of the said debts of one hundred and sixty thousand dollars, and not otherwise, and shall for that purpose be deposited until required in the agency of a chartered bank of Canada, at Napanee or elsewhere in this Province, or invested in government securities or stock, either of the Dominion of Canada or the Province of Ontario, upon such terms as the said municipal council and such bank or government shall from time to time agree upon, and shall only be withdrawn therefrom as the same may be required from time to time for the payment and redemption of the said outstanding debenture debt, or any part thereof, and not otherwise.

Outstanding
debentures
may be called
in.

7. The treasurer of the said county shall, on receiving instructions from the said council, so to do, from time to time, but only with the consent of the holders thereof, call in any of the said outstanding debentures, and liabilities, specially provided for by this Act, and shall discharge and satisfy the same with the funds raised under this Act, or may, with the like consent substitute therefor, the said debentures, or any of them above authorized to be issued by this Act, upon such terms as may be agreed upon between the said council and the said holders of said outstanding debentures.

By-law not
to be repealed
until debt
satisfied.

8. Any by-law to be passed under the second section of this Act, and in pursuance of the provisions of this Act, authorizing the said loan, shall not be repealed until the debt created under such by-law, and the interest thereon shall be paid and satisfied.

Investment of
sinking fund.

9. The said municipal council shall, and it shall be the duty of the treasurer of the said county for the time being, to invest from time to time, all moneys raised by the special rate provided by this Act, and the by-law or by-laws imposing the same, or derived from the investment of the said moneys as hereinafter mentioned, less the interest, payable in respect of the said debentures, to be issued in pursuance of this Act for the then current year, in either the bank or government securities mentioned in the sixth section of this Act, as the said council shall direct, and upon such terms as the said council and bank or government

government shall agree upon, and such moneys shall only be withdrawn therefrom as the same may be required from time to time for the payment and redemption of the said last-mentioned debentures, or the said outstanding debentures, or any part thereof, and to apply the residue of such moneys from time to time, to the payment of the interest on the said debentures and not otherwise, nor for any other purpose whatever. Payment of interest.

10. Any provisions in the Acts respecting municipal institutions in the Province of Ontario, which are or may be inconsistent with the provisions of this Act, or any of them, shall not apply to the by-law or by-laws to be passed by the said corporation under the provisions of this Act, and no irregularity in the form, either of the said debentures, authorized to be issued by this Act, or of the by-law or by-laws authorizing the issuing thereof, shall render the same invalid, or illegal, or be allowed as a defence to any action brought against the said corporation for the recovery of the amount of the said debentures and interest, on any or either of them or any part thereof. Inconsistent provisions in Municipal Acts not to apply.
Irregularity not to render by-law or debentures invalid.

11. Nothing in this Act contained, shall be held or taken to discharge the corporation of the county of Lennox and Addington from any indebtedness or liability which may not be included in the said debt of one hundred and sixty thousand dollars. Liability of corporation not discharged.

CHAPTER 40.

An Act to authorize the Corporation of the City of London to sell certain lands.

[Assented to 4th March, 1881.]

WHEREAS the municipal council of the corporation of the city of London have, by their petition, represented that the lands hereinafter mentioned were purchased by the said corporation from the Government of Canada, and were, with other lands, by letters patent, under the great seal of the Dominion of Canada, bearing date the twenty-second day of April, in the year of our Lord one thousand eight hundred and seventy-nine, granted to the said corporation, to hold unto the said corporation for the following purposes, that is to say: the two and one-half acres at the east end of the block, parcel or tract of land therein and hereinafter mentioned, next to Waterloo street, for the purpose of a high school, and the remainder of the said block, parcel or tract of land, containing three acres, two roods and eleven perches, more or less, for the purposes Preamble.

purposes of a normal school : that the provision contained in the said letters patent as to the said three acres, two roods and eleven perches, was inserted therein at the request of the said municipal council for the purpose of enabling them, in the event of there being, (as at the time the said purchase was made, was believed to be contemplated,) a Provincial Normal School, established and erected at the said city of London, to provide a suitable site therefor : that the said contemplated object cannot be carried out, and that the said municipal council are desirous of obtaining authority to sell the said lands and to apply the proceeds of the sale thereof in constructing sewers, or for such sanitary or other purposes as the said municipal council may deem expedient, and have prayed that an Act may be passed to enable them so to do, and it is expedient to grant the prayer of the said petition ;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Sale of land
authorized.

1. So far as the Legislature of Ontario has authority so to enact, the said corporation of the City of London is hereby authorized and empowered to sell, absolutely dispose of, and convey the said block, tract, or parcel of land, which is described in the said letters patent, as "that certain parcel or tract of land, of an oblong figure, formerly occupied by the Royal Artillery Barracks, Commissariat, and other buildings, bounded north-westerly by Bond street produced, south-easterly by Duke street, to the south-west by Wellington street, and north easterly by Waterloo street, containing by admeasurement six acres and eleven perches, more or less," and which may be better described and known as that block of land in the said city of London, bounded on the north by Bond street, on the east by Waterloo street, on the south by Dufferin avenue, formerly called Duke street, and on the west by Wellington street, excepting the easterly two and one-half acres thereof, freed and discharged from the trust created by the said letters patent, and so far as the same is within the legislative authority of the Legislature of Ontario, from all claims and rights whatsoever of Her Majesty and her successors, and to apply the proceeds of the sale of the said lands in constructing sewers in the said city of London, or for such sanitary or other purposes of the said city of London as the said municipal council may deem expedient.

Application of
proceeds of
sale

Purchasers not
bound to see to
application of
purchase
money.

Terms on
which land
may be sold.

2. The purchasers of the said lands shall not be bound to see to the application of their purchase money.

3. The said lands may be sold either for cash or on credit, or partly for cash and partly on credit, and mortgages on real estate may be taken by and in the name of the said corporation to secure the unpaid purchase money.

CHAPTER 41.

An Act to authorize the Village of London East to construct and maintain Water-Works, and to incorporate said Village as a Town.

[Assented to 4th March, 1881.]

WHEREAS, the population of the village of London East, Preamble.
in the county of Middlesex, is rapidly increasing, and the council of the said village have by their petition represented that the construction of water-works and a supply of water for the said village would promote the comfort of its inhabitants, and afford means for the protection of property from fire, that it is desirable to increase the limits of the said village, and that the incorporation of the said village as a town would promote its future progress and prosperity, and have prayed that power may be given to said village to construct and maintain water-works, and to incorporate said village as a town; and whereas, it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The corporation of the village of London East, by and through the agency of commissioners and their successors, to be elected and appointed as hereinafter provided, may and shall have power to design, construct, build, purchase, improve, hold and generally maintain, manage and conduct, water-works, and all buildings, matters, machinery and appliances therewith connected or necessary thereto, in the village of London East, and parts adjacent, as hereinafter provided. Construction of water works authorized.

2. The commissioners and their successors shall be a body corporate, under the name of the "Water Commissioners for the village of London East," and shall be composed of three members, of whom the reeve of the village of London East for the time being, shall be *ex officio*, one, and the said commissioners shall have all the powers necessary to enable them to build the water-works hereinafter mentioned, and to carry out all and every, the other powers conferred upon them by this Act. Water commissioners.

3. It shall be the duty of the said commissioners to examine, consider and decide upon all matters relative to supplying the said village of London East, with a sufficient quantity of water for the use of its inhabitants, for the protection of property from fire or for any purpose. Duty of commissioners.

4. The commissioners shall have power to employ engineers, surveyors and such other persons, and to rent or purchase such lands, Powers of commissioners.

lands, buildings, waters and privileges as in their opinion may be necessary to enable them to fulfil their duties under this Act.

Power to enter
on lands,

Divert and
appropriate
streams, etc.

Arbitration.

5. It shall and may be lawful for the said commissioners, their agents, servants and workmen, from time to time, and at such times hereafter as they shall see fit, and they are hereby authorized and empowered to enter into and upon the lands of any person or persons, bodies politic or corporate in the village of London East, or within ten miles of the said village, and to survey, set out and ascertain such parts thereof as they may require for the purposes of the said water-works; and also to divert and appropriate any river, pond of water, spring or stream of water therein as they shall judge suitable and proper, and to contract with the owner or occupier of the said lands, and those having a right in the said water, for the purchase thereof, or of any part thereof, or of any privilege that may be required, for the purposes of the said water commissioners; and in case of any disagreement between the said commissioners and the owners or occupiers of the said lands, or any person having an interest in the said water, or the natural flow thereof, or any such privilege as aforesaid respecting the amount of purchase or value thereof, or as to the damages such appropriation shall cause them or otherwise, the same shall be decided by three arbitrators, to be appointed as hereinafter mentioned, namely; the commissioners shall appoint one, the owner or owners shall appoint another, and such two arbitrators shall within ten days after their appointment, appoint a third arbitrator; but in the event of such two arbitrators not appointing a third arbitrator within the time aforesaid, the judge of the county court of the county of Middlesex shall, on application of either party, appoint such third arbitrator; in case any such owner or occupier shall be an infant, married woman, or insane, or absent from this Province, or shall refuse to appoint an arbitrator in his behalf, or in case such land or water privileges be mortgaged, or pledged to any person or persons, the judge of the county court of the county of Middlesex, on application being made to him for that purpose, by the commissioners, shall nominate and appoint three indifferent persons as arbitrators; the arbitrators to be appointed as hereinbefore mentioned, shall award, determine, adjudge and order the respective sums of money which the said commissioners shall pay to the respective persons entitled to receive the same, and the award of the majority of the said arbitrators in writing shall be final; and said arbitrators shall be, and they are hereby required to attend at some convenient place, at or in the vicinity of the said village, to be appointed by the said commissioners, after eight days' notice given for that purpose by the said commissioners, there and then to arbitrate and award, adjudge and determine such matters and things as shall be submitted to their consideration by the parties interested, and also the costs attending said reference and award; and each arbitrator shall be sworn before some one of Her Majesty's justices of the peace, in and for the said

said county of Middlesex, well and truly to assess the value or damages between the parties to the best of his judgment; and the justice of the peace, before whom the said arbitrators, or any of them shall be sworn, shall give either of the parties requiring the same, a certificate to that effect: Provided always, *Proviso.* that any award under this Act shall be subject to be set aside on application to the court of Queen's Bench or Common Pleas, in the same manner and on the same grounds as in ordinary cases of arbitration, in which case a reference may be again made to arbitration as hereinbefore provided, and that any sum so awarded shall be paid within three calendar months from the date of the award, or determination of any motion to annul the same, and in default of such payment, the proprietor may resume possession of his property, and all his right shall thereupon revive, and the award of the majority of the said arbitrators shall be binding on all parties concerned, subject as aforesaid.

6. The lands, privileges and water which shall be ascertained, set out or appropriated by the said commissioners, for the purposes thereof as aforesaid, shall thereupon and forever thereafter be vested in the corporation of the village of London East and their successors, and it shall and may be lawful for the said commissioners and their successors to construct, erect and maintain in and upon the said lands all such reservoirs, water-works and machinery requisite for the said undertaking, and to convey the water thereto and therefrom in, upon or through any of the grounds and lands lying intermediate between the said reservoirs and water-works and the springs, streams, rivers or ponds or water from which the same are procured and the said village of London East, by one or more lines of pipes as may, from time to time, be found necessary; and, for the better effecting the purpose aforesaid, the said commissioners, and their successors and servants, are hereby empowered to enter and pass upon and over the said grounds, roads, highways, railways and lands intermediate as aforesaid, and the same to cut and dig up if necessary, and to lay down the said pipes through the same, and in, upon, over, under and through the highways, railways and roads within ten miles of the village of London East, and in, through, over and under the public ways, streets, lanes, railways or other passages within the said village of London East, and in, upon, through, over and under the lands, grounds and premises of any person or persons, bodies corporate, politic or collegiate, or any lands of the Crown, and to set out, ascertain, use and occupy such part or parts thereof as they, the said commissioners or their successors, shall think necessary and proper for the making and maintaining of the said works, or for the opening of new streets required for the same, and for the purchasing of any lands required for the protection of the said works, or for preserving the purity of the water supply, or for taking up, removing, altering or repairing the same, and for distributing water to the

Lands, privileges and works vested in corporation of London East.

the inhabitants of the village of London East, or for the uses of the corporation of the said village, or of the proprietors or occupiers of the lands through or near which the same may pass, and, for this purpose, to sink and lay down pipes, tanks, reservoirs and other conveniences, and, from time to time, to alter all or any of the said works, as well in the position as in the construction thereof, as to the said commissioners or their successors shall seem meet, doing as little damage as may be in the execution of the powers hereby granted to them, and making reasonable and adequate satisfaction to the proprietors, to be ascertained in case of disagreement by arbitration, as aforesaid; and all such water-works, pipes, erections and machinery requisite for the said undertaking shall likewise be vested in and be the property of the said corporation of the village of London East.

Payment of
compensation
into court.

7. If any of the owners or occupiers of, or persons interested in any land, right or privilege entered upon or taken under the provisions of this Act, is an infant, insane, or absent from this Province, or if any person interested in the moneys awarded as compensation therefor, refuses or is unable to execute the proper conveyance, or if for any other reason the commissioners deem it advisable so to do, the commissioners may pay the amount of such compensation, with interest for six months, into the Court of Chancery, for the purpose of the same being distributed between and paid to the persons entitled thereto according to their several and respective interests therein, and thereupon the lands, rights and privileges in respect of which such compensation is awarded, shall be vested in the corporation of the said village of London East, its successors and assigns, and the award shall be deemed the title of the corporation, and may be registered in the proper registry office.

Publication of
notice to per-
sons entitled
to money in
court.

8. A notice, in such form and for such time as the said court appoints, shall be inserted in some newspaper published in the county in which the lands are situate, which shall state that the title of the corporation, that is, the conveyance, agreement or award, is under this Act, and shall call upon all persons entitled to the land, or any part thereof, or representing or being the husbands of any parties so entitled, to file their claims to the compensation, or any part thereof, and all such claims shall be received and adjudged upon by the court, and the said proceedings shall forever bar all claims to the lands, rights or privileges, or any part thereof, including dower as well as all mortgages and incumbrances upon the same, and the court shall make such order for the distribution, payment or investment of the compensation, and for securing the rights of all parties interested as to right and justice, and according to the provisions of this Act and to law appertain.

Costs.

9 The costs of the proceedings, or any part thereof, shall be paid as the court deems it equitable to order.

10.

10. If such order of distribution as aforesaid is obtained in less than six months from the payment of the compensation into court, the court shall direct a proportionate part of the interest to be returned to the commissioners or the corporation (as the case may be), and, if from any error, fault or neglect of the commissioners, or the corporation (as the case may be), such order is not obtained until after the six months have expired, the court shall order the commissioners or the corporation (as the case may be), to pay to the proper claimants the interest for such further period as may be right.

Interest on money paid into court.

11. If the commissioners show by affidavit to the satisfaction of the judge of the county court of the county wherein the lands lie, that the immediate possession of the lands, or of the rights or privileges which are sought to be acquired under the provisions of this Act is necessary for proceeding with the operations of the commissioners, and that the commissioners are ready to proceed with such operations forthwith, the said judge may, upon the commissioners giving security to his satisfaction in such sum as he may think just, to pay or deposit the compensation to be awarded, within one month after making the award, with interest from the time possession is given, and also to pay such costs as may be lawfully payable by the commissioners, issue his warrant to the sheriff of the county in which the lands lie, or to a bailiff, as he may deem most suitable, to put the commissioners in possession, and to put down any resistance or opposition to possession being taken, which the sheriff or bailiff, taking with him sufficient assistance, shall accordingly do.

Obtaining possession of land before compensation made.

12. If any person shall wilfully or maliciously hinder or interrupt or cause or procure to be hindered or interrupted the said commissioners, or their managers, contractors, servants, agents, workmen, or any of them in the exercise of any of the powers and authorities in this Act authorized and contained; or if any person shall wilfully or maliciously let off or discharge any water, so that the same shall run waste or useless out of the said works; or if any person shall throw or deposit any injurious, noisome or offensive matter into the said water or water-works, or upon the ice, or in any way foul the same, or commit any wilful damage or injury to the works, pipes or water, or encourage the same to be done; every person offending in any of the cases aforesaid shall on conviction thereof before any justice of the peace having jurisdiction within the locality where the offence shall be committed, forfeit and pay for every such offence a sum not exceeding twenty dollars, together with the costs of conviction, one-half to be applied to the use of the commissioners for water-works purposes and the other half to him or her who shall lay information; and in case the parties suing for the same shall be the commissioners themselves or any of their servants, officers, agents or workmen, then the whole of the said penalty shall be applied to the uses

Prohibitions and penalties.

uses of the commissioners for water-works purposes ; and such justice may also in his discretion further condemn such person to be confined in the common gaol of the county of Middlesex for any period not exceeding one calendar month, as to such justice shall seem meet ; and such person or persons so offending shall be liable to an action at law, at the suit of the commissioners, to make good any damage done by him, her, or them.

Property
exempt from
execution.

13. All materials procured or partially procured under contract with the commissioners and upon which the said commissioners shall have made advances in accordance with such contract, shall be exempt from execution.

Books to be
kept by com-
missioners.

Inspection of
books.

14. The said commissioners shall be and they are hereby required to keep or cause to be kept regular books of account, and books for recording the whole of their official proceedings ; and the commissioners and the clerks employed in their service shall be sworn before a justice of the peace to the faithful performance of their duties ; and all such books shall be open to the examination of any member of the council of the village of London East, or of any person or persons appointed for that purpose by the council of the corporation of the village of London East, and the said commissioners shall annually, on or before the thirty-first day of December in each and every year, make a report to the corporation of the village of London East of the condition of the works under their charge, accompanied by a statement of their receipts and expenditures on account of the same.

Statements to
be furnished to
corporation.

15. The commissioners and their successors shall from time to time in each year deliver to the council of said corporation such other statement of the affairs of the said water-works as the said corporation may consider necessary, and which will afford to the inhabitants of the village of London East a full and complete knowledge of the state of affairs of the said water-works, and such information as may be required by the corporation of the village of London East, and all the accounts relating to the said water-works may be audited by the auditor of the said corporation in regular course.

Power to regu-
late use of
water and
rates therefor.

16. The commissioners for the time being shall regulate the distribution and use of the water in all places and for all purposes where the same may be required, and from time to time shall fix the prices for the use thereof, and the times of payment ; and they may erect such number of public hydrants, and in such places as they shall see fit, and direct in what manner and for what purpose the same shall be used, all which they may change at their discretion : Provided always that all hydrants, conduits, or other appliances which the corporation of the village of London East may require under this Act for the purpose of extinguishment of fires shall be placed as the corporation of the village of London East shall direct, and shall be

Proviso.

be under their exclusive control and direction when erected ; and the commissioners shall also have power and authority from time to time to fix the rate or rent to be paid for the use of the water by hydrants, fire plugs and public buildings.

17. The sum payable by the owner or occupant of any house, tenement, lot, or part of a lot, for the water supplied to him there, or for the use thereof, shall be a lien and charge on such house, tenement, lot, or part of a lot, and may be levied and collected in like manner as municipal rates and taxes are by law recoverable. Rates to be a lien on property.

18. Notwithstanding anything in this Act contained, no person shall be bound to take water supplied by the said commissioners or the said municipal council, unless he shall choose to do so, and neither the said commissioners nor the said municipal council shall have authority to impose water rates upon non-consumers. Use of water supply not compulsory.

19. No person shall be held to be disqualified from being elected, or sitting as a member of the council of the municipal corporation of the village of London East, by reason of his being a taker or consumer of water supplied by the commissioners or the corporation, or by reason of any dealing or contract with the commissioners or the corporation, with reference to the supply of water to such person. Use of water supply no disqualification for council.

20. All water rents and water rates when collected, less disbursements by the commissioners, shall be paid over monthly by the said commissioners to the treasurer of the Village of London East. Moneys collected to be paid to corporation.

21. The commissioners shall have power from time to time, to make and enforce all necessary by-laws, rules and regulations, for the general maintenance or the management and conduct of the said water-works, officers, and others employed by them, not inconsistent with this act ; and for the collection of the said water-rent and water-rate, and for fixing the time and times (which shall be quarterly) when and the places where the same shall be payable ; also for allowing a discount for prepayment, and in case of default in payment, to enforce payment by shutting off the water, or by suit at law before any court of competent jurisdiction, or by distress and sale of the goods and chattels of such owner or occupant, or of any goods and chattels in his or her possession, wherever the same may be found within the village of London East, or County of Middlesex, or of any goods and chattels found on the premises, the property of or in the possession of any other occupant of the premises ; such distress and sales shall be conducted in the same manner as sales are now conducted for arrears of village taxes ; and the costs chargeable shall be those payable to bailiffs under the division court act : Provided that the

the attempt to collect such rates by any process hereinbefore mentioned shall not in any way invalidate the lien upon such premises.

Actions by and
against com-
missioners.

22. The commissioners may prosecute or defend any actions or process at law or in equity by the name of "The Water Commissioners of the Village of London East" against any person or persons for money due for the use of the water, for the breach of any contract, express or implied, touching the execution or management of the works, or the distribution of the water, or of any promise or contract made to or with them, and also for any injury or trespass or nuisance done or suffered to the water courses, source of water supply, pipes, machinery, or any apparatus belonging to or connected with any part of the works, or for any improper use or waste of the water, or for anything otherwise arising out of their said office as commissioners.

Power to em-
ploy collectors,
assessors, etc.

23. The commissioners, by by-law, shall have power, with the consent of the corporation of the village of London East, to employ the village collectors, assessors, and such other persons as in their opinion may be necessary to carry out the object of this Act, and to specify the duties of such persons so employed, and to fix their compensation; and all such persons shall hold their offices under the commissioners, at the pleasure of the commissioners, or as they shall determine by by-law in that behalf; and shall give such security as the commissioners shall from time to time require, and such assessors and collectors shall have as full power in the performance and enforcement of the matters to them committed, as the collectors and assessors in the village of London East may by law possess and enjoy.

Protection in
exercise of
office.

24. The commissioners and their officers shall have the like protection in the exercise of their respective offices, and the execution of their duties, as justices of the peace now have under the laws of this Province.

Drawing off
water without
consent of com-
missioners
prohibited.

25. If any person or persons shall lay or cause to be laid any pipe or main to communicate with any pipe or main of the said water-works, or in any way obtain or use any water thereof without the consent of the commissioners, he or they shall forfeit and pay to the commissioners for water-works purposes, the sum of fifty dollars, and also a further sum of five dollars for each day or part of a day, or night or part of a night, such pipe or main shall so remain, which said sums, together with costs of suit in that behalf, may be recovered by civil action in any court of law in the Province having civil jurisdiction to that amount.

Bathing, etc.,
within one
mile of source

26. If any person shall bathe or wash, or cleanse any cloth, wool, leather, skin, or animals, or place any nuisance or offensive

offensive thing within the distance of one mile from the source of supply for such water-works, in any river, pond, creek, spring, source or fountain from which the water of the said water-works is obtained, or shall convey, or cast, or throw or put any filth, dirt, dead carcases, or other noisome or offensive things therein, or within the distance as above set out, or cause, permit, or suffer the water of any sink, sewer or drain to run or be conveyed into the same, or cause any other thing to be done whereby the water therein may be in anywise tainted or fouled, every such person shall, on conviction thereof before any justice of the peace, be by such justice adjudged and condemned to pay a penalty for every such offence, not exceeding twenty dollars, together with costs, one half to be applied to water-works purposes, and the other half to him or her who shall lay the information; and in case the party laying such information be the commissioners themselves or any of their officers or servants, then the whole of said penalty shall be applied to the uses of the commissioners for water-works purposes, and such justice may also in his discretion further condemn such person to be confined in the common gaol for a space of time not exceeding one calendar month, with or without hard labour, as to such justice may seem meet.

27. It shall and may be lawful for the commissioners, and they are hereby authorized and empowered to make such by-laws as to them shall seem requisite and necessary for prohibiting by fine, not exceeding twenty dollars, for water-works purposes, or imprisonment, not exceeding one calendar month, (the amount of such fine, and duration of such imprisonment, and also the option between fine and imprisonment, with or without hard labour, being always in the discretion of the justice of the peace before whom any proceeding may be taken for enforcement thereof,) any person being occupant, tenant or inmate, of any house supplied with water from the said water-works, from lending, selling or disposing of the water thereof, from giving it away or permitting it to be taken or carried away, or from using or applying it to the use or benefit of others, or to any other than to his, her or their own use and benefit, or from increasing the supply of water agreed for with the said commissioners, or from wrongfully neglecting or improperly wasting the water; as also for regulating the time, manner, extent and nature of the supply by the said works, the tenement or parties to which and to whom the same shall be furnished, the price or prices to be exacted therefor, and each and every matter or thing relating thereto or connected therewith, which it may be necessary or proper to direct, regulate or determine, for issuing to the inhabitants of the said village a continued and abundant supply of pure and wholesome water, and to prevent the practising of frauds upon the commissioners with regard to the water so supplied.

Power to make by-laws prohibiting wrongful use of water, and regulating supply.

Cost of laying service pipes across vacant spaces, how defrayed.

28. In all cases where a vacant space intervenes between the line of street and the wall of the building into which the water is to be taken, the commissioners are empowered to lay the service pipes across such vacant space, and charge the cost of the same to the owners of the premises, such charge to be payable with the first payment of water-rates, and to be collected in the same manner from the said owners.

Service pipes, etc., under control of the commissioners.

29. The service pipe from the line of street to the interior face of the outer wall of the building supplied, together with all branches, couplings, stop-cocks and apparatus placed therein by the commissioners, shall be under their control; and if any damage be done to this portion of the service pipe or its fittings, either by neglect or otherwise, the commissioners may repair the same, and charge the same to the occupant or owner of the premises; the stop-cock placed by the commissioners inside of the wall of the building, shall not be used by the water tenant, except in cases of accident, or for the protection of the building or pipes, and to prevent flooding of premises.

Taps.

30. All parties supplied with water by the commissioners may be required to place only such taps for the drawing or shutting off the water as may be approved of by the commissioners.

Non-liability for breakage or stoppage.

31. Neither the water commissioners nor the corporation of the village of London East, shall be liable for damages caused by the breaking of any service pipe or attachment, or for any shutting off of the water to repair mains or to tap the pipes: Provided notice be given of the intention to shut off the water when the same is shut off more than six hours at any one time.

Inspection of premises supplied with water.

32. It shall be lawful for the officers of the water commissioners and every person authorized by them for that purpose, to have free access at proper hours of the day, and upon reasonable notice given and request made for that purpose, to all parts of every building in which water is delivered and consumed.

Interference with hydrants, etc., prohibited.

33. If any person or persons, not being in the employment of the water commissioners, or not being a member of the fire brigade of the village of London East, and duly authorized in that behalf, shall wilfully open or close any hydrant, or obstruct the free access to any hydrant, stop-cock chamber, or hydrant chamber, by placing on it any building material, rubbish or otherwise, every such person shall, on conviction before any of Her Majesty's justices of the peace, forfeit and pay for each offence a sum not exceeding twenty dollars for water-works purposes, or in default of payment be imprisoned in the gaol of the county for a term not exceeding thirty days; and each time

time the said hydrants are so interfered with, and each day, or part of a day, night, or part of a night, said obstruction shall continue, shall be considered a separate offence.

34. A majority of said commissioners shall constitute a Quorum of quorum for the transaction of any business allowed or required commissioners. by virtue of this Act.

35. The water commissioners are hereby empowered to arrange for the extension of pipes in suburbs, or partially built portions of the village, by allowing a deduction from the price charged for the water, to such extent as the commissioners shall see fit, when the said pipes are laid at the cost of the parties, under the directions of the commissioners, and subject to their approval, or the commissioners may lay the pipes, charging the said parties, in addition to the usual water rates, a yearly interest upon the cost of such extension, which interest or such portion thereof as shall then be due, shall be paid at the same time and collected in the same manner as the water rates. Cost of extending supply to suburbs, etc.

36. The water commissioners shall have power and authority to supply any corporation, person or persons with water, although not being resident within the village of London East, and may exercise all other powers necessary to the carrying out of their agreements with such corporation or persons, as well within the townships of London and Westminster as within the village of London East; and they may also from time to time, make and carry out any agreement which they may deem expedient for the supply of water to any railway company or manufactory within the aforesaid limits: Provided, that no power shall be exercised under this clause, without the consent and approbation of the council of the corporation of the village of London East. Authority to supply water out of town.

37. The land, buildings, machinery, reservoirs, pipes, and all other real or personal property connected with or appertaining or belonging to the water-works shall be exempt from taxation. Property exempt from taxation.

38. If any action or suit be brought against any person or persons for anything done in pursuance of this Act, the same shall be brought within six calendar months next after the act committed, or in case there shall be a continuation of damages, then within one year after the original cause of such action arising. Limitation of actions.

39. The watchmen and other officers of the water commissioners when in the discharge of their duty, shall be *ex officio*, Powers of officers. possessed of all the powers and authorities of officers of the peace.

Issue of debentures authorized.

40. For the purpose of acquiring the necessary lands, rights and privileges, and constructing the said water-works, and paying the interest on the debentures during the progress of the works, and expenses attendant thereon, and for the extension and repairs of the said water-works, or for the purpose of meeting the payment of any other matter or thing contemplated or allowed by this Act, the corporation of the village of London East shall have power to pass a by-law authorizing the issue of, and to issue, debentures of the said corporation of the village of London East, to be called water-works debentures, for a sum of money not exceeding one hundred thousand dollars of lawful money of Canada, in such sums not less than one hundred dollars, or twenty pounds sterling money, as shall to the said corporation seem expedient, which debentures shall become payable in manner and at the times following, that is to say, within a period of thirty years from the date of the respective issues thereof, and shall bear interest after a rate not exceeding seven per centum per annum, such interest to be payable half-yearly, and shall have coupons attached for the payment of the said half-yearly interest; and such debentures shall be signed by the reeve and treasurer of said village for the time being, and may be made payable either in sterling or currency in this Province, Great Britain or elsewhere as to the council of the corporation of the village of London East shall seem expedient; and the corporation of the village of London East and their successors shall for the purpose of providing a sinking fund for the payment of the said debentures as aforesaid, and the interest on the same semi-annually, raise annually after the completion of said works or at the expiration of three years from the date of the first issue of such debentures, such sum as may be necessary to pay the interest upon and provide a sinking fund to meet the whole of such debentures in full, as the same shall become due respectively, and shall order a rate for that purpose to be settled, imposed and levied in each and every year to pay the said principal and interest on such debentures; and it shall not be necessary to submit any by-law for the issue of the said debentures to the approval of the ratepayers or electors of the village of London East; but the said debentures to be issued hereunder shall be valid and effectual, and binding to all intents and purposes on the corporation of the village of London East, notwithstanding any of the provisions of the Municipal Institutions Act in that behalf have not been complied with.

Debenture by-law need not specify rate.

Corporation to impose necessary rate.

41. It shall not be necessary that any by-law passed under the authority of the next preceding section of this Act shall provide that any specific sum, special or other rate per annum, shall be settled, imposed or levied in each or any year to pay the principal or interest of the debentures thereby authorized to be issued, and it shall be the duty of the corporation of the village of London East and the council thereof, in each and every year after the completion of the said water-works, or after the expiration of three years from the date of the first issue of such debentures

debentures, whichever shall first happen, to impose, levy and collect a rate sufficient to pay the interest upon, and to provide a sinking fund of two per cent. per annum for the payment of the said debentures, and the by-law for the issue of debentures under the authority of the fortieth section of this Act may be in the form contained in the schedule "A" to this Act.

42. Such debentures when issued shall be deposited in some of the chartered banks having an office in the city of London, and the proceeds of such debentures shall be paid into some chartered bank and kept separate from any other funds of the said village, and the same shall only be paid out on the cheque of the reeve and treasurer for the time being of the village of London East, and the chairman for the time being of the said water commissioners, as may from time to time be required for the payment and discharge of the liabilities that may be incurred in carrying out the improvements contemplated by this Act, and for the payment of interest accruing due on the said debentures during the period of the erection and completion of the said water-works: *Application of proceeds of debentures.* Provided always, *Proviso.* that nothing herein contained shall prevent the commissioners, should they deem it advisable so to do, from paying the contractor or contractors or others, in debentures, either at par or at such rate of discount as the commissioners shall in their judgment deem advisable, with the assent of the council of the corporation of the village of London East thereto, nor from selling or negotiating the same as to them may seem most expedient and advantageous to the interests of the village of London East.

43. The said water-works to be erected and constructed under this Act, and also the lands to be acquired for the purpose thereof, and every matter and thing therewith connected, shall be and they are hereby specially charged, pledged, mortgaged and hypothecated for the re-payment of any sum or sums which may be borrowed by the said corporation for the purposes of this Act, as well as for the due and punctual payment of the interest thereupon; and all; each and every of the holders of the debentures in the last previous section mentioned, shall have a preferential pledge, mortgage, hypothec or privilege on the said lands, water-works, and property appertaining thereto for securing the payment of the said debentures and the interest thereon. *Water works property charged with sums raised for purposes of this Act.*

44. After the construction of the works all the revenues arising from or out of the supplying of water, or from the real or personal property connected with the said water-works, to be acquired by the said corporation under this Act, shall, after providing for the expenses attendant upon the maintenance of the said water-works, be paid over to, and deposited monthly with the treasurer of the said corporation of the village of London East, as hereinbefore provided, and shall make part of the *Application of revenue.*

the general funds of the corporation and may be applied accordingly.

Power to sell
or lease
property.

45. The corporation of the Village of London East may dispose of any real or personal property acquired by them for water-works purposes, when no longer required, and until sold, demise and lease the same.

When Act to
take effect.

46. The preceding sections of this Act shall not have any force or effect until the council of the corporation of the village of London East shall pass a by-law authorizing the construction of the said water-works, but no by-law shall be passed, (firstly), until estimates of the intended expenditure have been published for one month, and notice of the time appointed for taking a poll of the electors on the proposed by-law has been published for one month, and a copy of the proposed by-law at length, as the same may be ultimately passed in council (except the date thereof), has been published for one month in some newspaper in the city of London; nor, (secondly), until a poll has been held in the same manner and at the same places and continued for the same time as at elections for councilmen, and unless a majority of the electors voting at the poll vote in favour of the by-law; nor, (thirdly), unless the by-law is thereafter passed at some meeting of the council of the corporation of the village of London East, held not less than ten days, nor more than one calendar month, after taking the said vote.

By-law if
rejected, not to
be submitted
again during
year.

47. If the proposed by-law is rejected at such poll, no other by-law for the same purpose shall be submitted to the electors during the then current year.

Provisions as
to by-law.

48. The by-law shall recite (1) the title of this Act; (2) the amount of the estimated expenditure for water-works; (3) the amount of debt which it is intended to create by the construction of the said water-works, which shall not exceed the amount of debentures authorized to be issued by this Act.

(2) The council of the village of London East shall name the returning officers and poll-clerks to take the votes.

(3) The electors entitled to vote shall be such ratepayers only as are voters on the last revised assessment roll of the village of London East, for an estate of freehold, either legal or equitable, of sufficient value to entitle them to vote at any municipal election, or of a leasehold, the duration of which shall not be less than ten years or for life, and in the lease for which leasehold the lessee covenants to pay all village taxes, and the clerk shall furnish the returning officers with a verified list of the electors.

(4) Any ratepayer offering to vote on any such by-law, may be required by the returning officer, or any ratepayer entitled to

to vote on any such by-law, to make the following oath or affirmation before his vote is recorded :

" I, A. B., do solemnly and sincerely make oath (or affirm, as the case may be), that I am the person named or purporting to be named in the list of electors ; that I am a freeholder, or leaseholder, (as the case may be) ; that my lease extends for the period of ten years from the time of making this oath or affirmation (or for life) ; that I am bound in such lease to pay all village taxes, and that I am according to law entitled to vote on the said by-law."

(5). Every returning officer shall, on the day after the closing of the poll, return his poll-book verified to the clerk of the village of London East, and in case of the loss or destruction of the poll-book, deliver a statement under oath of the number of votes for and against said by-law at the time of the loss or destruction of the poll-book.

(6). The village clerk shall add up the number of the votes for and against the same, and certify to the council whether the majority have affirmed or disapproved of the by-law.

49. No irregularity in the passing of the said by-law or in the form of the said debentures authorized by this Act in the issuing thereof shall render the same invalid or illegal or be allowed as a defence to any action brought against the corporation for the recovery of the amount of said debentures and interest in any or either of them or any part thereof.

Irregularities
not to render
debentures
invalid.

50. There shall be three commissioners, of whom the reeve of the village of London East, for the time being shall be *ex-officio* one, and two of whom shall be elected by the ratepayers of the said village, qualified by municipal law to vote for councilmen, in manner and for the term hereinafter mentioned and provided, and the remuneration of the said commissioners shall be such as the council of the corporation of the village of London East may by by-law, before their election, determine.

Commissioners, how
appointed.

51. The said water commissioners shall hold office for the term of one year, and until their successors are appointed and elected, except the commissioners first elected, who shall hold office until the first Monday of January next following their election ; and after the said first election the commissioners shall be elected to the said office at the same time and in the same manner as for the election of the reeve of said village, and all the provisions and remedies of the Municipal Institutions Act at any time in force with respect to Reeves shall apply in all particulars not inconsistent with this Act to the said commissioners, as to election, unseating, filling vacancies, grounds of disqualification, and otherwise.

Term of office.

52. Whenever the by-law authorizing the construction of the said water-works shall have been finally passed by the council, a meeting of the electors of the said village shall take place,

First election
of commis-
sioners.

place, for the nomination of two persons for the office of water commissioners, at such place as the council shall by by-law appoint, and the proceedings at such meeting shall be similar to those in the case of the nomination for reeve; but in case it becomes necessary to adjourn the proceedings by reason of more than the necessary number of candidates being proposed, such adjournment for holding the election shall be until the first Wednesday thereafter, being not less than five clear days, when a poll shall be opened in the said village at the places, or near thereto, where the then last municipal election was held, and in all particulars the election shall be conducted in like manner as an election for reeve.

Vacancies in office.

53. A water commissioner may resign his office, and shall cease to hold office for the same causes as by municipal law the seat of a councilman in the council becomes vacant; in case of a vacancy in the office of water commissioner during the term of his office, the council of the corporation of the village of London East shall appoint a person to fill the vacancy, and the person so appointed shall hold office for the residue of the term for which his predecessor was elected or appointed or for which the office is to be filled.

Works to be finished in three years.

54. The said works shall be constructed, completed and finished within three years from the passing of said by-law authorizing the construction of said water-works.

Work to be performed by contract.

55. All work under the commissioners shall be performed by contract.

No commissioner or councilman to hold contract in connection with works.

56. No commissioner or councilman shall personally have or hold any contract in connection with said works, or be directly or indirectly interested in the same or any of them; no deputy-reeve or councilman shall be eligible for election or appointment as a water commissioner, and no water commissioner as councilman.

Qualification of commissioners.

57. The water commissioners shall have the same property qualification as, by municipal law, councilmen are required to have over and above all incumbrances; and shall before taking office, and within ten days of their election or appointment, make oath to such qualification before some justice of the peace of the county of Middlesex, and deposit the same with the village clerk of the corporation of the village of London East.

Works may be constructed directly by corporation.

58. Notwithstanding the provisions of this act authorizing the construction of the said water-works through the agency of commissioners, the corporation of the village of London East in the by-law authorizing the construction of said water-works, and referred to in the forty-sixth section of this Act, may declare that the said water-works shall not be constructed by or through the agency of commissioners, but instead thereof,
that

that the said water-works shall be constructed directly by the said corporation of the village of London East ; and in case the said corporation shall so desire to construct the said water-works, then all the powers, rights, authorities, duties and liabilities by this act, given to, granted or vested in or imposed on the said commissioners, shall be vested in the said corporation, and the council of the said corporation shall be vested with all the powers, privileges and immunities necessary for carrying into effect the intentions and objects of this act.

59. In case the corporation of the village of London East shall not see fit to construct the said water-works by or through the agency of commissioners or directly by the said corporation, the said corporation may in the by-law referred to in the forty-sixth section of this Act, declare it advisable to have the said water-works constructed either by a corporate water company, or by any other person or persons, and the said corporation may grant aid for the construction in such manner as they may consider expedient.

Works may be constructed by a company or otherwise.

60. In case the corporation of the village of London East shall desire to construct the said water-works by either of the modes provided by the last two preceding sections of this Act, such mode shall be first approved of by a majority of the qualified voters voting on any by-law to be submitted for that purpose ; and the question or questions respecting the adoption of either of such modes may be submitted by the council of the said corporation for the approval of the qualified voters in the proposed by-law mentioned in the forty-sixth section of this Act, and the votes shall be given on each specific question which may be submitted, or the same may be submitted separately.

Approval by electors of mode of construction necessary.

61. The council of the corporation of the village of London East shall have full power by by-law to confer on any person or persons or corporations that may undertake the construction of the said water-works, all the powers, privileges and immunities necessary to acquire the lands, water and privileges necessary for the establishment and construction of said water-works, and the management thereof when constructed, which by this Act are conferred upon the commissioners or the corporation of the village of London East or upon the said council.

Delegation of powers by corporation.

62. It shall and may be lawful for the said commissioners, or the corporation of the village of London East, as the case may be, and they are hereby authorized, instead of constructing water-works to make and enter into an agreement with the corporation of the city of London, or with the water commissioners for the city of London, or any corporate water company, for a supply of water for the said village or its inhabitants, on such terms and for such time as may be mutually agreed upon, but only after a by-law approving of the same shall have been passed in accordance with the provisions of the forty-sixth section

Agreement with corporation of city of London for water supply authorized.

tion of this Act, and the water commissioners for the city of London, or other body having the control of the water-works system of the said city, may, with the consent of the municipal council of the corporation of the said city of London, enter into such agreement.

Corporation
may declare
powers of com-
missioners at
an end.

63. The said municipal council of the village of London East may at any time by by-law declare that the powers, rights, privileges and duties of the commissioners shall on and from a day to be named therein cease, be determined and come to an end, and the powers, rights, privileges and duties of the commissioners shall, from the day so named for that purpose as aforesaid, cease, be determined and come to an end, and thereafter the said water-works shall be managed and controlled by the said municipal council; and the said municipal council shall be invested with all the powers, rights and privileges which are by this Act conferred upon, vested in, or enjoyed by the said commissioners, and be charged with all the duties which are thereby imposed upon them: Provided always, that such by-law shall not come into operation or take effect, unless or until the assent of the like ratepayers of the village of London East as were entitled to vote on the by-law to authorize the construction of the said water-works, shall have first been obtained thereto, in the manner prescribed in the municipal act, with respect to by-laws (other than drainage by-laws) requiring the assent of the electors.

Water supply
of city of
London not to
be interfered
with.

64. Nothing in this Act contained shall be taken to authorize the corporation of the village of London East, or the water commissioners for the village of London East or any other person acting under the authority of this Act, to interfere with or appropriate any springs or sources of water supply at the time being in actual use by the water commissioners for the city of London, or any person or body having the control of the water supply of the said city of London, or any springs or sources of water within three miles of such springs or sources of water, or to cut up, dig or lay down pipes in, under or through or otherwise interfere with any street, highway or lands within the said city of London, or to supply water within the said city of London without having first obtained a by-law of the Municipal council of the corporation of the said city of London authorizing them so to do.

Incorporation
of town of
London East.

65. On and after the twenty-sixth day of December next after the passing of this Act, the said village of London East shall be and is hereby constituted a corporation or body politic under the name of "The Corporation of the Town of London East," and shall enjoy and have all the rights, powers and privileges enjoyed and exercised by incorporated towns in the Province of Ontario under the existing municipal laws for the said Province, and shall be subject to the like duties and liabilities.

66.

66. The said town of London East shall comprise and consist of the present village of London East and the north half of lot number twelve, the north west quarter of lot number eleven, and the south west part of lot number ten, in the first concession of the township of London, in the county of Middlesex, the said part of lot number ten having a frontage of ten chains and eighty-nine and one-half links, by a depth northerly of eighteen chains and thirty-five links, and being that part of said lot number ten known as "Abbott's Survey."

Limits of town.

67. The said town shall be divided into three wards, in manner described in schedule "B" to this Act, to be called respectively the first, second and third wards, which said several wards shall be respectively composed and bounded as in said schedule described, and the council of the said town shall consist of a mayor, who shall be the head thereof, a reeve, deputy reeves, and two councillors for each ward.

Wards.

68. Except as otherwise provided by this Act, the provisions of "The Municipal Act," and of all other general Acts respecting municipal institutions with regard to matters consequent upon the formation of new corporations, and other provisions of the said Acts applicable to incorporated villages, shall apply to the village of London East in the same manner as they would have been applicable had the said village of London East been erected into a town under the provisions of the said Acts.

Acts respecting municipal institutions to apply.

69. At the first election of mayor, reeve, deputy-reeve and councillors for the town of London East, the qualification of electors and that of officers required to qualify shall be the same as that required in villages by the municipal laws of Ontario.

Qualification of electors and officers.

70. The expenses incurred in obtaining this Act and of furnishing any documents, copies of papers, writings, deeds, or any matters whatsoever required by the clerk or other officer of the said town, or otherwise, and not theretofore paid by the said village, shall be borne by the said town and paid by it to any party that may be entitled thereto.

Expense of Act, etc.

71. Should the corporation of the village of London East not exercise or avail itself of the powers conferred upon it by the provisions of this Act in regard to water-works, before the twenty-sixth day of December next, then all the said provisions, rights, powers, duties and obligations shall extend to and be applicable to the said town of London East, and the same shall be read and construed as though the said town of London East were specially mentioned instead of the village of London East, and the rights, privileges and duties thereby given to and imposed upon the reeve, or any officer of the said village, shall be and are given to and imposed upon the mayor or other officers of

Powers given to corporation of village to be transferred to town, if not exercised.

of the said town of London East, respectively ; and in the event of the submission of the by-law referred to in the forty-sixth section hereof to the electors of the said town, every elector may vote in each ward of the said town in which he may have the necessary qualification.

SCHEDULE "A."

(Section 41.)

A by-law to provide for the issue of water-works debentures to the amount of \$ under the authority of "An Act to authorize the village of London East to construct and maintain water-works, and to incorporate said village as a town."

Whereas, the said recited Act authorizes the issue of debentures for the purposes therein mentioned to an amount not exceeding dollars ; and whereas a by-law authorizing the construction of water-works for the village of London East, by the authority of the said recited Act, has been duly passed in accordance therewith, and the expenditure thereby authorized to be incurred is the sum of

Be it therefore enacted by the municipal council of the corporation of the village of London East as follows:—

1. It shall be lawful for the water commissioners of the village of London East to raise by way of loan from any person or body corporate who may be willing to advance the same, upon the credit of the debentures hereinafter mentioned, a sum of money, not exceeding in the whole the sum of dollars, and to cause the same to be paid into the branch or agency office of the at the City of London, to be kept and applied in the manner provided in section forty-two of the said Act.

2. The reeve may cause any number of debentures, which shall be marked and known as water-works debentures, to be made for such sums as may be required, but not for less than one hundred dollars, or twenty pounds of sterling money of Great Britain each, and such debentures shall be made under the common seal of the said village, and signed by the reeve and treasurer thereof.

3. The said debentures shall be made payable in years at furthest, from the date of the respective issue thereof either in sterling money of Great Britain, or currency of this Province, or Great Britain, or elsewhere, and shall have attached to them coupons for the payment of interest.

4. The said debentures shall bear interest after the rate of per centum per annum from the date thereof, and the interest shall be payable half-yearly, on the first days of January and July in each and every year.

Passed

Passed in open council the day of in
the year of our Lord one thousand eight hundred and eighty
, and given under the corporate seal of the said munici-
pality.

Clerk.

Reeve.

SCHEDULE " B."

(Section 67.)

First ward shall comprise all that part of the said town which is bounded as follows: Commencing at the south-west angle of lot formerly known as number twelve in concession "C" of the township of London, then easterly along the south boundary of said lot twelve, lot eleven and lot ten, in said concession "C," to the centre of the south boundary of said lot ten; then northerly along the eastern limit of said town to the south side of Florence street; then westerly along the south side of Florence, Campbell, and York streets to Adelaide street, then southerly along the east side of Adelaide street to the place of beginning.

Second ward shall comprise all that part of the said town which is bounded as follows: Commencing on the east side of Adelaide street at its junction with the north boundary of York street, then northerly along the east side of Adelaide street to the south side of Queen's Avenue, then easterly along the south side of Queen's Avenue to the west side of Quebec street, then southerly along the west side of Quebec street to the south side of Dundas street, then easterly along the south side of Dundas street to the eastern limit of the said town, then southerly along the eastern limit of said town to the north side of Florence street, then westerly along the north side of Florence, Campbell and York streets, to the place of beginning.

Third ward shall comprise all that part of the said town which is bounded as follows: Commencing on the north side of Queen's Avenue at its junction with Adelaide street, then easterly along the north side of Queen's Avenue to the east side of Quebec street, then southerly along the east side of Quebec street to the north side of Dundas street, then easterly along the north side of Dundas street, to the south east corner of "Abbott's Survey," then northerly along the eastern limit of "Abbott's Survey" to the north east angle thereof, then westerly along the northerly limit of said survey to the westerly limit of lot number ten in the first concession of the township of London, then northerly along the said last mentioned limit to the centre of the said first concession, then westerly along the centre of said concession to the south east angle of the north west quarter of lot number eleven in the said first concession, then northerly along the easterly limit of the said north west quarter of lot number eleven to the southerly limit of the road allowance, between the first and
second

second concessions of the said township of London, then westerly along the said last mentioned road allowance to the easterly limit of Adelaide street, and then southerly along the said last mentioned limit to the place of beginning.

CHAPTER 42.

An Act respecting the Village of Millpoint.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the corporation of the village of Millpoint have by their petition represented that they desire to change the name of the said village, and that hereafter the same may be known as the village of Deseronto; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Name
changed.

1. The name of the village of Millpoint, in the county of Hastings, shall be and the same is hereby changed to the village of Deseronto, and hereafter the corporation of the village of Millpoint shall be known as and called the corporation of the village of Deseronto.

By-laws,
elections, ap-
pointments,
etc., not affect-
ed.

2. All the by-laws of the said the corporation of the village of Millpoint shall, until altered or repealed by said corporation, be and remain the by-laws of the said the corporation of the village of Deseronto, and all elections held heretofore and appointments made, and which were and are in force at the passing of this Act, shall be held and taken in all respects as if the said change of name had taken place when the same were made and had, and in all and every respect whatsoever the said corporation of the village of Deseronto shall be taken and held to be the same as the corporation of the village of Millpoint.

CHAPTER 43.

An Act to organize the Municipality of Neebing.

[Assented to 4th March, 1881.]

WHEREAS John McKellar, Peter McKellar, Edward Ingalls, P. L. Knappin, Neil McDougall, J. N. Black, Daniel McKellar, and P. J. Brown, being householders and freeholders of the municipality of Shuniah, have, by their petition, represented that it is desirable that certain portions of the said municipality should

should be withdrawn therefrom and formed into a new municipality, and have prayed that an Act may be passed for that purpose; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The following townships, islands, and other lands in the district of Thunder Bay, namely: the townships of Blake, Crooks, Pardee, Paipoonge, Neebing, McKellar, and the several islands in front of the said townships, respectively, and forming parts thereof, are hereby withdrawn from the municipality of Shuniah and organized as a separate municipality, called "The Municipality of Neebing," and the inhabitants thereof are hereby constituted a body corporate under the name of 'The Corporation of the Municipality of Neebing.'

Limits of municipality of Neebing.

Corporate name.

2. The said corporation shall have and possess all the rights, powers, liabilities and incidents of a township municipality; and the council thereof shall have power to pass by-laws for such purposes as are provided for townships under "The Municipal Act," and the provisions of the said Act, and of "The Assessment Act" relating to township municipalities and their officers shall apply to the municipality erected under this Act, except where inconsistent with any express provision of this Act; and the provisions of the law at any time in force respecting public schools in municipalities without county organization shall also apply to the said municipality, and all the provisions of law now applying to the municipality of Shuniah, and not inconsistent with this Act, shall also apply to the said municipality of Neebing.

Corporations have rights of township municipalities.

3. The sections of the Municipal Act, from fifty to sixty inclusive, relating to matters consequent upon the formation of new corporations, except as hereinafter provided, shall apply to the municipality of Neebing, and nothing contained in this Act shall free the townships or wards comprising the municipality of Neebing from any liability now existing against the municipality of Shuniah, and the creditors of the said municipality of Shuniah shall continue to have all the rights and remedies which they had previous to the passing of this Act for the enforcement of their claims against the townships and wards heretofore composing the said municipality of Shuniah.

Municipality of Neebing liable for all claims existing against municipality of Shuniah.

4. The said municipality of Neebing shall be entitled to ninety per cent. of all taxes levied in any of the wards forming said municipality of Neebing previous to the passing of this Act, and the said municipality of Neebing shall have full power and authority to collect the same, or any part thereof uncollected at the time of the coming into force of this Act.

Taxes to which municipality of Neebing entitled.

5.

Wards.

5. Every township, with the islands in front thereof, within the distance of one mile, shall be considered, and is hereby declared to be, a ward of the said new municipality; except that the islands numbered one and two at the mouth of the Kaministiquia River, together with Georgina Islet in front, shall be attached to the township of McKellar, and constitute the McKellar Ward.

First election.

6. The nominations for the first election shall be held at Fort William, and the polling shall take place at such times and at such places within the municipality as the stipendiary magistrate of the district of Thunder Bay shall, by his proclamation, appoint. The polling day shall not be less than two weeks nor more than six weeks from the day of nomination.

Returning officers.

7. Such persons shall act as returning officers in the various wards as the said stipendiary magistrate may in writing appoint.

First meeting of council.

8. The first meeting of the council shall be held at a time and place to be fixed by the stipendiary magistrate.

Appointment and remuneration of clerk, treasurer, and collector.

9. The said council shall, at their first meeting, or as early as possible thereafter, appoint a clerk, treasurer, and collector, who shall hold office until removed or dismissed by said council; and the said council shall also fix the remuneration to be paid said officers, by by-law to be passed for that purpose.

Appointment of assessor.

10. The said council shall, as early as convenient after their first meeting, appoint one or more assessors, who shall enter upon a roll, to be provided for that purpose, the names of all the freeholders and householders in said municipality, and the amount of all the real and personal property owned by them respectively, and the actual value thereof, at the same time entering on said roll whether the owners are resident or not; and the said assessor or assessors shall duly notify the person or persons so assessed by leaving a notice at his or her place of abode, or if a non-resident, by mailing the same at the nearest post office, to the address of the person so assessed, if known, stating in such notice the particulars of said assessment.

Roll to be returned to clerk.

11. The said roll shall be returned to the clerk of the municipality within such time as shall be provided for by a by-law to be passed by said council.

Appeal against assessment.

12. Any person so assessed, if he shall complain of his assessment, shall within one month after the time fixed for returning said roll, notify, in writing, the clerk, of his grounds of complaint.

Council to hear and determine appeals.

13. The said council shall thereafter appoint a time and place, which time shall be on some day during the months of

of June, July, August or September, for the Court of Revision to hear said complaints, and such court shall, after hearing the parties complaining, as well as the assessor or assessors, and such evidence as may be adduced, alter or amend the roll accordingly.

14. An appeal may be had from the decision of the Court of Revision to the stipendiary magistrate, in the same manner as to the county judge in other municipalities, and the decision of the stipendiary magistrate shall be final. Appeal from court of revision.

15. Notices of appeal shall in all cases of appeal to the stipendiary magistrate be left with the clerk of the municipality. Notice of appeal.

16. The stipendiary magistrate shall have the like powers and shall perform the like duties in respect of such appeals, as are performed by the county judge in other municipalities in like cases. Powers of stipendiary magistrate as to appeals.

17. The said roll so finally revised shall be taken and held as the roll of the municipality, for all purposes, until a new roll shall have been made and returned as hereinafter provided. Revised roll to be the roll of the municipality.

18. The said council shall, by by-law, fix the time for making the assessment in the municipality at periods of not less than one nor more than three years: Provided always, that the year for the purposes of this Act shall be considered as commencing on the first day of July in each and every year. Council to fix time for making assessment.

19. The said council shall, by by-law, fix the time for the collector making his return, and the said collector shall have the same powers as are conferred on collectors by the Municipal Act. Collector's return and powers.

20. The council shall, in each and every year after the final revision of the roll, pass a by-law for levying a rate on all the real and personal property on said roll of not more than two cents on the dollar, to provide for all the necessary expenses of said municipality; and also such further sums as may be required for public school purposes, and for the proportions of the debts of the municipality of Shuniah for which the townships hereby incorporated as the municipality of Neebing, are now liable. Council to levy rates.

21. The said council may establish and maintain a lock-up house within the municipality, and may establish and provide for the salary or fees to be paid the constable to be placed in charge of such lock-up house: Provided always, that the appointment of said constable shall be ratified by the stipendiary magistrate of the district; and the said council shall have power to remove or suspend such constable for neglect of duty or other misconduct. Council may establish a lock-up house. Appointment of a constable thereto.

Appointment
and removal
of constables.

Proviso.

22. The council shall have the power to appoint one or more constables within the municipality, whose duty it shall be to enforce and maintain law and order, and who shall perform all duties appertaining to constables in Ontario; and the said council shall have the power from time to time to remove the constables for any misconduct in their office, and shall also regulate the fees to be paid said constables: Provided always that such appointment and tariff of fees shall be subject to the approval and ratification of the stipendiary magistrate of the said district; and the stipendiary magistrate shall also have the power of removing or suspending any constable for neglect of duty or other misconduct.

CHAPTER 44.

An Act respecting Water and Gas Works at Parkdale.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS, the council of the corporation of the village of Parkdale, have petitioned for the passage of an Act empowering the corporation of said village to construct, establish and maintain water-works, and gas-works in said village, and whereas, it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Construction
of water works
authorized.

1. The corporation of the village of Parkdale, by and through the agency of commissioners and their successors to be elected and appointed as hereinafter provided, may and shall have power to design, construct, build, purchase, improve, hold and generally maintain, manage and conduct, water-works and gas-works or either of them, and all buildings, matters, machinery and appliances therewith connected or necessary thereto in the said village and parts adjacent, as hereinafter provided.

Water com-
missioners.

2. The commissioners and their successors shall be a body corporate, under the name of the "Water and Gas Commissioners for the village of Parkdale," and shall be composed of three members, of whom the reeve of the village of Parkdale, for the time being, shall be *ex officio* one, and the said commissioners shall have all the powers necessary to enable them to build the water-works and gas-works hereinafter mentioned, and to carry out all and every, the other powers conferred upon them by this Act.

3.

3. It shall be the duty of the said commissioners to examine, consider and decide upon all matters relative to supplying the said village, and the inhabitants thereof, and such other persons, companies, or bodies politic or corporate, as the council of the corporation of the said village, under the powers in this Act conferred, may contract with for that purpose, with a sufficient quantity of pure and wholesome water, and of gas of suitable power and purity.

Duties of commissioners.

4. The commissioners shall have power to employ engineers, surveyors and such other persons, and to rent or purchase such lands, buildings, waters, and privileges as in their opinion may be necessary to enable them to fulfil their duties under this Act.

Powers of commissioners.

5. It shall and may be lawful for the said commissioners, their agents, servants, and workmen, from time to time, and at such times hereafter as they shall see fit, and they are hereby authorized and empowered to enter into and upon the lands of any person or persons, bodies politic or corporate, in the village of Parkdale, or within ten miles of the said village, but not within the city of Toronto, or the village of Yorkville, or the village of Brockton, unless by and with the consent of the council of such city or village, to be given by by-law in that behalf, and to survey, set out and ascertain such parts thereof as they may require for the purposes of the said water-works and also to divert and appropriate any river, pond of water, spring or stream of water therein as they shall judge suitable and proper, except the streams in the township of York known as Well's creek and Baldwin's creek, and to contract with the owner or occupier of the said lands, and those having a right in the said water, for the purchase thereof, or of any part thereof, or of any privilege that may be required, for the purposes of the said water commissioners; and in case of any disagreement between the said commissioners and the owners or occupiers of the said lands, or any person having an interest in the said water, or the natural flow thereof, or any such privilege as aforesaid, respecting the amount of purchase or value thereof, or as to the damages such appropriation shall cause to them or otherwise, the same shall be decided by three arbitrators, to be appointed as hereinafter mentioned, namely: the commissioners shall appoint one, the owner or owners shall appoint another, and such two arbitrators shall within ten days after their appointment, appoint a third arbitrator; but in the event of such two arbitrators not appointing a third arbitrator within the time aforesaid, the judge of the county court of the county of York, shall, on application of either party, appoint such third arbitrator; in case any such owner or occupier shall be an infant, married woman, or insane, or absent from this Province, or shall refuse to appoint an arbitrator in his behalf, or in case such land or water privileges be mortgaged,

Power to enter on lands.

Divert and appropriate streams, etc.

Arbitration.

Proviso.

gaged, or pledged to any person or persons, the judge of the county court of the county of York, on application being made to him for that purpose, by the commissioners, shall nominate and appoint three indifferent persons as arbitrators; the arbitrators to be appointed as hereinbefore mentioned, shall award, determine, adjudge and order the respective sums of money which the said commissioners shall pay to the respective persons entitled to receive the same, and the award of the majority of the said arbitrators in writing shall be final; and said arbitrators shall be, and they are hereby required to attend at some convenient place, at or in the vicinity of the said village, to be appointed by the said commissioners, after eight days' notice given for that purpose by the said commissioners, there and then to arbitrate and award, adjudge and determine such matters and things as shall be submitted to their consideration by the parties interested, and also the costs attending said reference and award; and each arbitrator shall be sworn before some one of Her Majesty's justices of the peace, in and for the said county of York, well and truly to assess the value or damages between the parties to the best of his judgment; and the justice of the peace, before whom the said arbitrators, or any of them shall be sworn, shall give either of the parties requiring the same, a certificate to that effect: Provided always, that any award under this Act shall be subject to be set aside on application to any of the Superior Courts of this Province, in the same manner and on the same grounds as in ordinary cases of arbitration, in which case a reference may be again made to arbitration as hereinbefore provided, and that any sum so awarded shall be paid within three calendar months from the date of the award, or determination of any motion to annul the same, and in default of such payment, the proprietor may resume possession of his property, and all his rights shall thereupon revive, and the award of the majority of the said arbitrators shall be binding on all parties concerned, subject as aforesaid.

Lands, privileges and works to be vested in the corporation of Parkdale.

6. The lands, privileges and water which shall be ascertained, set out or appropriated by the said commissioners as aforesaid, shall thereupon become and thereafter forever be vested in the corporation of the village of Parkdale, and their successors, and it shall be lawful for the said commissioners and their successors to construct, erect and maintain, in and upon the said lands, all such reservoirs, water-works, and machinery requisite for the said undertaking, and to convey the water thereto and therefrom in, upon or through any of the grounds and lands lying intermediate between said reservoirs and water-works and the springs, streams, rivers, lakes or ponds or water from which the same are procured, and the said village of Parkdale, by one or more lines of pipes, as may from time to time be found necessary, and for better effecting the purposes aforesaid, and for the purpose of conducting the water from the said works to the consumers

sumers thereof, whether within or beyond the limits of the said village of Parkdale, the said commissioners, their successors and servants, are hereby empowered to enter and pass upon and over the said grounds, roads, highways, railways and lands intermediate as aforesaid, and the same to cut and dig up, if necessary, and to lay down the said pipes through the same, and in, upon, over, under, and through the streets, lanes, highways, railways and roads of and in the townships of York and Etobicoke, the city of Toronto, the village of Yorkville and the incorporated village of Brockton, and in, through, over and under the public ways, streets, lanes, railways or other passages of the said village of Parkdale, and in, upon, through, over or under the lands, grounds and premises of any person or persons, bodies corporate or politic or collegiate, or any lands of the crown, and to set out, ascertain, use and occupy such part or parts thereof as they the said commissioners, or their successors, shall think necessary and proper for the making and maintaining of the said works, or part thereof, or for the opening of new streets required for the same, and for the purchasing of any lands required for the protection of the said works, or for preserving the purity of the water supply, or for taking up, removing, altering or repairing the same, and for distributing water to the inhabitants of, and to the corporation of the village of Parkdale, or for the use of the corporation of the said village or of the proprietors or occupiers of the lands through or near which the same may pass, to the municipalities hereinbefore mentioned, and the inhabitants thereof, and to those to whom they, the said commissioners are hereby empowered to supply the same, and, for this purpose, to sink and lay down pipes, tanks, reservoirs and other conveniences, and, from time to time, to alter all or any of the said works, as well in the position as in the construction thereof, as to the said commissioners, or their successors, shall seem meet, doing as little damage as may be in the execution of the powers hereby granted to them, and making reasonable and adequate satisfaction to the proprietors, to be ascertained, in case of disagreement, by arbitration as aforesaid, and all such water-works, pipes, erections and machinery, requisite for the said undertaking, shall likewise be vested in and be the property of the said corporation of the said village of Parkdale: Provided always that the powers and rights by this section given to or vested in the said commissioners or the corporation of the village of Parkdale shall not be enjoyed or exercised within the said city of Toronto or the village of Yorkville or the village of Brockton, except to such extent and subject to such conditions as by any by-law in that behalf the council of the said city or of either of the said villages respectively shall provide and require: Provided further that it shall not be necessary to obtain such consent from the city of Toronto to enable the said commissioners to lay water or gas mains or other works in connection therewith on Dufferin street in the said city for the purpose of supplying the residents on the west side thereof with gas, or water for purposes of fire protection. 7.

Power to carry
pipes over and
across
property,
parts of which
belong to dif-
ferent persons.

7. Where there are buildings within the village of Parkdale aforesaid, the different parts whereof belong to different proprietors or shall be in possession of different tenants or lessees, the said commissioners shall have power to carry pipes to any part of any building so situate, passing over the property of one or more proprietors, or in possession of one or more tenants, to convey the water to that of another, the pipes being carried up and attached to the outside of the building, and, also, to break up and up-lift all passages which may be a common easement to neighbouring proprietors, and to dig or cut trenches therein for the purpose of laying down pipes, or taking up or repairing the same, the said commissioners doing as little damage as may be in the execution of the powers granted by this Act, and making satisfaction thereafter to the owners or proprietors of buildings or other property, or to any other party, for all damages to be by them sustained in or by the execution of all or any of the said powers subject to which provisions this Act shall be sufficient authority for doing any of the things aforesaid.

Power to enter
on lands.

8. It shall and may be lawful for the said commissioners, their agents, servants and workmen, from time to time, and at such times hereafter as they shall see fit, and they are hereby authorized and empowered to enter into and upon the lands of any person or persons, bodies politic or corporate, in the village of Parkdale and the township of York, to set out and ascertain such parts thereof as they may require for the purposes of said gas-works, and to contract with the owner or occupier of said lands for the purchase thereof, or of any part thereof, or of any privilege that may be required for the purposes of the said commissioners; and in case of any disagreement between said commissioners and the owners or occupiers of the said lands, or any such privilege, as aforesaid, respecting the amount of purchase or value thereof, or as to the damage such appropriation shall cause to them or otherwise, the same shall be decided by arbitration in the same manner as is provided in the fifth section of this Act, and the proceedings on such arbitration shall be as therein set forth.

Company
may break up
streets, etc.

9. Under and subject to the provisions contained in section thirteen, chapter thirty-nine, of an Act passed in the fortieth year of Her Majesty's reign, intituled "An Act respecting the city of Toronto, the Toronto Water Works, and other matters," which said section thirteen shall for the purposes of this Act be held as applying to and including the village of Brockton and the village of Yorkville, in the same manner and to the same extent as the said section applies to and includes the city of Toronto, the said commissioners may break up, dig and trench so much and so many of the public streets, roads, squares, highways and other public places either of the village of Parkdale, the city of Toronto, the village of Yorkville, the village of Brockton, and the township of York, as may at any time be
necessary

necessary or required for laying down the mains and pipes to conduct the gas from the works of the said commissioners to the consumers thereof, whether within or beyond the said limits of the said village of Parkdale, or into, through, or over any part of the city of Toronto, the village of Yorkville aforesaid, the village of Brockton aforesaid, or of the township of York, or for taking up, renewing, altering or repairing the same whenever the said commissioners shall deem it expedient; doing no unnecessary damage in the premises, and taking care as far as may be to preserve a free and uninterrupted passage through the said streets, squares and public places, while the works are in progress, and making the said opening in such parts of the said streets, squares and public places, as the council of the city, village or township, as the case may be, shall reasonably permit and point out, also placing such guards or fences and such lamps, and taking all such precautions as may be necessary for the prevention of accidents to passengers and others, which may be occasioned by such openings; also finishing the work and replacing the said streets, squares, and public places, in as good condition as before the commencement of the work, without any unnecessary delay: Provided, that for the purpose of laying mains it shall not be lawful for the said commissioners, except with the written consent of the engineer of the city of Toronto, or the person for the time being acting as such, or the reeve or head of the council of either of the said villages as the case may be, to break up or interfere with any of the streets, squares, lanes or passages of the said city of Toronto, or of either of the said villages as the case may be, until after thirty days' notice in writing of such intention shall have been given to the said engineer, or the person for the time being acting as such, if any, or to the said reeve or head of the council as the case may be, but that it shall be lawful for the said commissioners to break up and interfere with such streets, squares, lanes or passages for the purpose of laying service pipes and for repairing any pipes in case of accident, without giving any such notice as aforesaid: Provided further, that unless any street, lane, square or passage broken up for the purpose of laying mains, or for any other purpose by the said commissioners is within forty-eight hours thereafter, restored to its original condition and so kept in repair by the said commissioners for six months, ordinary wear and tear excepted, the said engineer or reeve or head of the council as the case may be, may at any time within the said period of six months after forty-eight hours' notice in writing of such non-repairs at the head office of the said commissioners, order the same to be restored to its former condition at the expense of the city, or village as the case may be, and deduct the cost of such repairs from any money due by the corporation of the said city or village as the case may be, to the said commissioners, or the same may be recovered at the suit of such corporation against the said commissioners in any court of competent jurisdiction.

Power to carry gas-pipes to buildings, parts of which belong to different proprietors.

10. Where there are buildings within any of the municipalities aforesaid, the different parts whereof belong to different proprietors or are in possession of different tenants or lessees, the said commissioners shall have power to carry pipes to any part of any building so situate, passing over the property of one or more proprietors, or in possession of one or more tenants to convey the gas to that of another, or in possession of another, the pipes being carried up and attached to the outside of the building, and also for the same purpose to break up and uplift all passages which may be a common easement to neighbouring proprietors, and to dig or cut trenches therein for the purpose of laying down pipes or taking up or repairing the same, the said commissioners doing as little damage as may be in the execution of the powers granted by this Act, and making satisfaction thereafter to the owners or proprietors of buildings or other property, or to any other party for all damages to be by them sustained in or by the execution of all or any of the said powers, subject to which provisions, this Act shall be sufficient to indemnify the commissioners or their servants or those by them employed, for what they or any of them shall do in pursuance of the powers granted hereby.

Company may hold land, construct buildings, etc.

11. The said commissioners may from time to time make, construct, lay down, maintain, alter or discontinue such retorts, gasometers, receivers, and buildings, cisterns, engines, machines and other apparatus, cuts, drains, sewers, water-courses, reservoirs, machinery and other works, and also such houses and buildings upon the lands hereby authorized to be held and purchased by the said commissioners and do all other acts necessary and convenient as they shall think proper for manufacturing and supplying the inhabitants within the limits of this Act with gas; and may also sell, dispose of, or manufacture the refuse of any such gas, and any coke, tar, surplus coal, or coal not found to answer for making gas, or any other of their real or personal property ceasing to be required for their purposes.

Construction of pipes and meters.

12. The commissioners may, doing no unnecessary damage by reason thereof, lay any pipes, branches or other necessary apparatus from any main or branch pipe, into, through, or against any building for the purpose of lighting the same with gas, and may provide and set up any apparatus necessary for securing to any buildings a proper and complete supply of gas, and for measuring and ascertaining the extent of such supply.

Streets, etc., where pipes are being laid to be kept free, and precaution taken against accidents.

13. In case the said commissioners open or break up any street, square, or public place in the said city of Toronto, village of Yorkville, village of Brockton, or township of York, and neglect to keep the passage of the said street, square or public place as far as may be, free and uninterrupted, or to place such guards or fences, or such lamps, or to place such watchmen or to take every such precaution as may be necessary for the prevention of accidents to passengers and others, or to close and replace the

the said streets, squares or public places without unnecessary delay as hereinbefore provided, the council of the said city, village, or township, as the case may be, after notice in writing to the said commissioners, shall cause the duty so neglected forthwith to be performed, and the expense thereof shall be defrayed by the said commissioners on its being demanded by the treasurer of the municipality, at any time not less than one month after the work shall have been completed in any case, from the said commissioners, or in default of such payment the amount of such claim may be recovered from the said commissioners at the suit of the corporation of the municipality, by civil action in any court of competent jurisdiction.

14. The main and service pipes that shall be laid down by the said commissioners shall be at least three feet from those of any other main or service pipe then laid down for the purposes of either gas or water service, or where this shall be impracticable, as nearly so as the circumstances of the case shall admit: Provided always that if any difference shall arise between the said commissioners and any person as to the practicability of the said commissioners so laying their pipes that they shall be at a distance of at least three feet from those of any such other main or service pipe so then laid down as aforesaid, then such difference shall, if relating to the laying of said pipes within the city of Toronto or the said village of Parkdale, be decided by the engineer of the said city, and if relating to the laying of pipes within any other municipality, by a civil engineer to be appointed by the council of such municipality, who, if he shall be of opinion that it is not practicable to lay down the pipes at such distance as aforesaid, shall direct the mode in which the pipes shall be laid at such place and the distance at which they shall be apart, not exceeding the distance aforesaid: Provided always an appeal shall lie from any such decision of such engineer to the judge of the county court of the county of York.

Distance of
main pipes
from those
of other
companies.

15. The main pipes laid down by the said commissioners shall have the initials of the corporate name of the said commissioners cast upon each of them, and also the ends of the service pipes and stop-cocks which appear in the cellars of the houses or buildings to be supplied with gas, shall be legibly and permanently stamped or marked with the said initials to distinguish them from those of any company, under a penalty of twenty-five dollars for each offence or neglect thereof, which penalty shall be paid to the corporation or person prosecuting, and shall be recovered by civil action in any court of competent civil jurisdiction.

Main pipes to
be stamped
with initials
of company.

16. If any person shall wilfully or maliciously hinder or interrupt, or cause or procure to be hindered or interrupted, the said commissioners, or their managers, contractors, servants, agents or workmen, or any of them, in the exercise of any of the powers and

Offences and
penalties.

and authorities in this Act authorized and contained, or if any person shall wilfully or maliciously let off or discharge any water or gas so that the same shall run useless out of the said works, or if any person shall throw or deposit any injurious, noisome or offensive matter into the said water or water-works or upon the ice, or in any way foul the same, or commit any wilful damage or injury to the works, pipes, water or gas, or encourage the same to be done, every person offending in any of the cases aforesaid shall, on conviction thereof, before any justice of the peace having jurisdiction within the locality where the offence shall be committed, forfeit and pay for every such offence a sum not exceeding the sum of twenty dollars, together with the costs of conviction, one-half to be applied to the use of the commissioners for the purposes of said works, and the other half to him or her who shall lay the information, and, in case the parties suing for the same shall be the commissioners themselves, or any of their servants, officers, agents or workmen, then the whole of the said penalty shall be applied to the uses of the commissioners for the purposes of the said works, and such justice may also, in his discretion, further condemn such person to be confined in the common gaol for the county of York, for any period not exceeding one calendar month, as to such justice shall seem meet, and such person or persons so offending, notwithstanding any such conviction as aforesaid, shall be liable to an action at law, at the suit of the commissioners, to make good any damage done by him, her or them.

Material
exempt from
execution.

17. All materials procured, or partially procured under contract with the commissioners, and upon which the said commissioners shall have made advances in accordance with such contract, shall be exempt from execution.

Books and
accounts to be
kept by com-
missioners.

Inspection of
books.

Statements to
be furnished to
corporation.

18. The said commissioners shall be and are hereby required to keep, or cause to be kept, regular books of account and books for recording the whole of their official proceedings in which the accounts relating to the water works, shall be separate and distinct from those relating to the gas works, and the commissioners and the clerks employed in their service shall before entering on their respective duties, be sworn before a justice of the peace to the faithful performance of their duties; and all such books shall be open to the examination of any member of the council of the village of Parkdale, or of any person or persons appointed for that purpose by the council of the corporation of the village of Parkdale, and shall annually, on or before the thirty-first day of December in each and every year, make a report to the corporation of the village of Parkdale, of the condition of the works under their charge, accompanied by a statement of their receipts and expenditures on account of the same respectively; and the commissioners and their successors shall from time to time, in each year, deliver to the council of the said corporation, such other statement of the affairs of the said water-works and gas-works, as the said corporation

corporation may consider necessary, and which will afford to the inhabitants of the village of Parkdale a full and complete knowledge of the state of affairs of the said water-works and gas-works, and such information as may be required by the corporation of the said village, and all the accounts relating to said water-works and gas-works may be audited by the auditor of the said corporation in regular course.

19. No person shall be held to be disqualified from being elected, or sitting as a member of the council of the municipal corporation of the village of Parkdale, by reason of his being a taker or consumer of water or gas, supplied by the commissioners or the corporation, or by reason of any dealing or contract with the commissioners or the corporation, with reference to the supply of water or gas to such person. Use of water supply no disqualification for council.

20. The commissioners for the time being shall regulate the distribution and use of the water and gas in all places, and for all purposes where the same may be required, and from time to time shall fix the prices for the use and consumption thereof, and the times and manner of payment, and they shall erect such number of public hydrants and such street lamps for lighting, and in such places as the council of the village may direct: Provided always that all hydrants, conduits, or other appliances for the conveyance of water or gas which the corporation of the village of Parkdale may require under this Act within the said village, for the purpose of extinguishing fires, or watering or lighting the streets, shall be placed as the corporation of the said village shall direct, and shall be under their exclusive control and direction when erected; and the said commissioners are hereby empowered, at proper hours of the day, and upon reasonable notice given and request made by them for that purpose, to place meters for either gas or water, as the case may be, upon any service pipe or connection within or without any house or building as they may deem expedient, and for this purpose, or for the purpose of protecting or of regulating the use of any such meter, to set or alter the position of the same, or of any pipe connection or tap, and to fix the price to be paid for the use of any such meter, and the necessary appliances connected therewith, and the times when and the manner in which the same shall be payable, and also to charge for and recover the expenses of such alterations, and such price, and the expense of such alterations may be collected in the same manner as water or gas rates: Provided that no service-pipe, fittings or meters, belonging to the said water works or gas works, shall be subject to distress for rent due to any landlord in respect of premises, wherein the same may be. Regulations as to use of water. Proviso.

21. If any person shall wilfully damage or cause to be damaged, any such meter or any service pipe or fittings, or wilfully alter any such meter, so as to lessen or alter the amount of Penalty on persons injuring or altering meters, etc.

of water or gas registered thereby, as the case may be, or so as to cause the quantity registered or used to be falsely indicated, or shall wilfully remove, destroy, damage, fraudulently alter, or in any way injure any pipe, pedestal, post, plug, lamp, or other apparatus or thing belonging to the said work, or wilfully extinguish any of the public lamps or lights, or waste or improperly use or suffer to be used, any of the gas or water supplied from said works, he shall incur a penalty of not less than five dollars nor more than one hundred dollars, to be recovered with full costs on summary conviction before any justice of the peace for the county of York, and in case the said penalty and costs are not paid forthwith, the justice may commit the offender to the common gaol of the county of York, for any period not exceeding thirty days, unless the said penalty and costs are sooner paid.

Water rates.

22. The commissioners shall have power and authority, and it shall be their duty, from time to time, to fix the price, rate or rent, which any owner or occupant of any house, tenement, lot, or part of a lot, or both, in, through or past which the water pipes shall run, shall pay as water rate or rent, whether such owner or occupant shall use the water or not, having due regard to the assessment, and to any special benefit and advantage derived by such owner or occupant, or conferred upon him or her, or their property, by the water-works and the locality in which the same is situated; and said commissioners shall, from time to time, fix the price and rate per thousand feet of gas which any owner or occupant as aforesaid, to whom the same shall be supplied, shall pay therefor, and the times of payment, and such water rate as shall be assessed by such commissioners upon such owner or occupant, shall be and continue a lien or charge, unless paid, upon such real estate, and the commissioners shall also have power and authority from time to time to fix the rate or rent to be paid for the use of the water by hydrants, fire-plugs and public buildings.

Lien for rates.

Rates to be paid over to treasurer.

23. All water and gas rates and rents when collected, less disbursements, by the commissioners, shall be paid over monthly by the commissioners to the treasurer of the said village of Parkdale, and by him shall be placed to the credit of the gas and water accounts respectively, and the commissioners shall have power to make and enforce all necessary by-laws, rules and regulations for the general maintenance or management and conduct of the said water and gas works, and the officers and others in their employ, not inconsistent with this Act, and for the collection of said water and gas rates, or rents, and for fixing the times, which shall be quarterly, when and the places where the same shall be payable; also for allowing a discount for pre-payment, and in case of default in payment, to enforce payment by shutting off the gas or water, or both, as the case may be, or by suit at law, in any court of competent jurisdiction, or by distress and sale of the goods and chattels of any owner

owner or occupant supplied with such gas or water, or of any goods or chattels in his possession, wherever the same may be found, within the village of Parkdale or the county of York, or of any goods or chattels found on the premises, the property of, or in the possession of any other occupant of the premises; such distress and sale shall be conducted in the same manner as sales for taxes, and the costs chargeable shall be those payable to bailiffs under the Division Court Act: Provided that the attempt to collect such rates by any process hereinbefore mentioned, shall not in any way invalidate the lien, if any, upon such premises.

24. The commissioners, by by-law, shall have power, with the consent of the corporation of the village of Parkdale, to employ the village collectors, assessors, and such other persons as in their opinion may be necessary to carry out the object of this Act, and to specify the duties of such persons so employed and to fix their compensation, and all such persons shall hold their offices under the commissioners, at the pleasure of the commissioners, or as they shall determine by by-law in that behalf; and shall give such security as the commissioners shall from time to time require, and such assessors and collectors shall, within the said village of Parkdale, have as full power in the performance and enforcement of the matters to them committed as the collectors and assessors in the said village of Parkdale may by law possess and enjoy; and the commissioners and their officers shall have the like protection in the exercise of their respective offices and the execution of their duties as justices of the peace now have under the laws of this Province.

Power to employ assessors, collectors, etc.

Protection in exercise of office.

25. If any person or persons shall lay, or cause to be laid, any pipe or main to communicate with any pipe or main of said water-works or gas works, or in any way obtain or use any water or gas therefrom, or furnish them or either of them to others, without the consent of the commissioners, he or they shall forfeit and pay to the commissioners for water-works or gas works purposes respectively, as the case may be, the sum of one hundred dollars in each case, and also a further sum of five dollars for each pipe or main for each day during which such pipe or main shall so remain, which sums, together with costs of suit in that behalf, may be recovered by civil action in any court of law in the Province, having jurisdiction to that amount.

Using water without consent.

26. If any person shall bathe or wash, or cleanse any cloth, wool, leather, skin or animals, or place any nuisance or offensive thing within the distance of one mile from the source of supply, and not being within the city of Toronto, for such water-works in any lake, river, pond, creek, spring, source or fountain, from which the water of the said water-works is obtained, or shall convey, or cast, or throw, or put any filth, dirt, dead carcasses,

Bathing, etc., within one mile of source of water supply prohibited.

carcasses, or other noisome or offensive things therein, or within the distance as above set out, or cause, permit or suffer the water of any sink, sewer or drain, to run or be conveyed into the same, or cause any other thing to be done whereby the water therein may be in any wise tainted or fouled, every such person shall, on conviction thereof before any justice of the peace, be by such justice adjudged and condemned to pay a penalty for every such offence, not exceeding twenty dollars, together with costs, one half to be applied to water-works purposes, and the other half to him or her who shall lay the information; and in case the party laying such information be the commissioners themselves or any of their officers or servants, then the whole of the said penalty shall be applied to the uses of the commissioners for water-works purposes, and such justice may also in his discretion further condemn such person to be confined in the common gaol for a space of time not exceeding one calendar month, with or without hard labour, as to such justice may seem meet.

Power to make by-laws prohibiting wrongful use of water, and regulating supply.

27. It shall and may be lawful for the commissioners, and they are hereby authorized and empowered to make such by-laws as to them shall seem requisite and necessary, for prohibiting by fine, not exceeding twenty dollars, for water-works purposes, or imprisonment not exceeding one calendar month, (the amount of such fine and duration of such imprisonment, and also the option between fine and imprisonment, with or without hard labour, being always in the discretion of the justice of the peace before whom any proceeding may be taken for enforcement thereof), any person being occupant, tenant or inmate of any house supplied with water from the said works, from lending, selling or disposing of the water thereof, from giving it away, or permitting it to be taken or carried away, or from using or applying it to the use or benefit of others, or to any other than to his, her, or their own use and benefit, or from increasing the supply of water agreed for with the said commissioners, or from wrongfully neglecting or improperly wasting the water, as also for regulating the time, manner, extent and nature of the supply of water by the said works, the tenement or parties to which and to whom the same shall be furnished, the price or prices to be exacted therefor, and each and every matter or thing relating thereto or connected therewith, which it may be necessary or proper to direct, regulate or determine, for issuing to the inhabitants of the said village a continued and abundant supply of pure and wholesome water, and to prevent the practising of frauds upon the commissioners with regard to the water so supplied.

Cost of laying service pipes across vacant spaces, how defrayed.

28. In all cases where a vacant space intervenes between the line of the street and the wall of the building into which the water is to be taken, the commissioners are empowered to lay the service pipes across such vacant space, and charge the cost of the same to the owners of the premises, such charge to

to be payable with the first payment of water-rates, and to be collected in the same manner from the said owners.

29. The service pipes from the line of the street to the interior face of the outer wall of the building supplied, together with all branches, couplings, stop-cocks, meters and apparatus placed therein by the commissioners, shall be under their control, and if any damage be done to this portion of the service pipes or their fitting, either by neglect or otherwise, the commissioners may repair the same, and charge the cost thereof to the occupant or owner of the premises; the stop-cock placed by the commissioners inside the wall of the building shall not be used by the water tenant, except in cases of accident or for the protection of the building, or the pipes, and to prevent flooding of the premises.

Service pipes,
stop-cocks,
meters, etc.

30. All parties supplied with water by the commissioners may be required to place only such taps for drawing and shutting off the water, as may be approved of by the commissioners.

Taps.

31. Neither the said commissioners nor the corporation of the village of Parkdale, shall be liable for damages caused by the breaking of any service pipe or attachment for the service of water, or for any shutting off of the water or gas to repair mains, or to tap pipes, provided notice be given of the intention to shut off the water or gas where the same is shut off more than six hours at any one time.

Non-liability
for breakage.

32. It shall be lawful for the officers of the said commissioners, and every person authorized by them for that purpose, to have free access at proper hours of the day, and upon reasonable notice given, and request made for that purpose, to all parts of every building in which water or gas, or either, is delivered and consumed, and also in like manner to enter into and upon the lands and houses of any person or corporation for the purpose of erecting water and gas meters therein, and for the purpose of inspecting or altering the same.

Power to
inspect
buildings.

33. If any person or persons not being in the employment of the commissioners, or not being a member of the fire brigade of the village of Parkdale, and duly authorized in that behalf, shall wilfully open or close any hydrant, or obstruct the free access to any hydrant, stop-cock chamber, or hydrant chamber, by placing on it any building material, rubbish, or otherwise, every such person shall, on conviction before any of Her Majesty's justices of the peace, forfeit and pay for each offence a sum not exceeding twenty dollars, for water-works purposes; or, in default of payment, be imprisoned in the gaol of the county for a term not exceeding thirty days, and each time the said hydrants are so interfered with, and each day or part of a day, night, or part of

Interference
with hydrants,
etc., pro-
hibited.

of

of a night, said obstruction shall continue, shall be considered a separate offence.

Quorum of commissioners.

34. A majority of said commissioners shall constitute a quorum for the transaction of any business allowed or required by virtue of this Act.

Exclusive control of lands, etc.

Commissioners may sue or be sued.

35. The said commissioners shall have full, entire and exclusive possession, control and management of the said lands, water and gas-works, and all things appertaining thereto, and may, in the name of "The Water and Gas Commissioners of the village of Parkdale," prosecute or defend any action or proceeding at law or in equity against any person or persons, or body corporate or politic, for money due for the use of water or gas, or both, for the breach of any contract, express or implied, touching the execution or management of the works, or distribution of the water or gas, or of any promise to or contract with them, and also for any injury, damage, trespass, spoil, or nuisance, or other wrongful act, done or suffered, or any unlawful interference with the water courses, source of water supply, gas-works, water or gas-pipes, or any pedestal, post, plug or lamp, or any machinery, or any apparatus belonging to or connected with any part of the works, or for any improper use or waste of gas or water, or for any wilful extinguishing of public lamps or lights, or for anything otherwise arising out of their said office as commissioners.

Cost of extending supply to suburbs.

36. The commissioners are hereby empowered to arrange for the extension of pipes, in suburbs or partially built portions of the village of Parkdale, by allowing a deduction from the price charged for the water and gas, or either, to such extent as the commissioners shall see fit, when the said pipes are laid at the cost of the parties, under the directions of the commissioners, and subject to their approval, or the commissioners may lay the pipes, charging the said parties in addition to the usual water rates, a yearly interest upon the cost of such extension, which interest, or such portion thereof as shall then be due, shall be paid at the same time and collected in the same manner as the water or gas rates.

Powers to supply water and gas outside of Parkdale.

37. The commissioners shall have power and authority to supply any corporation, person or persons with water and gas, or either, although not being a resident within the said village of Parkdale, and may exercise all other powers necessary to the carrying out of their agreements with such corporations or persons, as well within the city of Toronto, the village of Yorkville, the village of Brockton, and the townships of York and Etobicoke, as within the said village of Parkdale, and they may, also, from time to time, make and carry out any agreement, which they may deem expedient for the supply of gas and water, or either, to any railway company or manufactory within

within the aforesaid limits: Provided that no power or authority shall be exercised under this clause without the consent and approbation of the council of the village of Parkdale.

38. If any action or suit be brought against any person or persons for anything done in pursuance of this Act, the same shall be brought within six calendar months next after the act committed, or, in case there shall be a continuation of damages, then within one year after the original cause of action arising. Limitation of actions.

39. For the purpose of constructing the said water-works or gas-works, or both, and purchasing all the machinery and materials connected therewith, and paying the interest on the debentures during the progress of the works, and expenses attendant thereon, and for the purpose of meeting the payment of any other matter or thing contemplated or allowed by this Act, the corporation of the village of Parkdale shall have power to issue debentures, none of which shall be for a less sum than one hundred dollars, for a sum of money not exceeding one hundred thousand dollars, which debentures shall be made payable in thirty years, at farthest, from the date of the respective issues thereof, and shall bear interest at a rate not to exceed seven per centum per annum, such interest to be payable half-yearly, and such debentures shall be signed by the reeve and treasurer of said village for the time being, and the council of the said village, shall, after the completion of said works, and for the purpose of providing a sinking fund for the payment of said debentures and the interest thereon, levy annually, by a general assessment, in such manner as general rates are levied under the Municipal Act, such sum as may be necessary to pay the interest upon and provide a sinking fund for the payment of said debentures as the same shall fall due respectively: Provided, however, that, before the issue of such debentures, the council of the said village of Parkdale shall pass a by-law for that purpose, which shall, before the final passage thereof, be submitted to and receive the assent of the majority of the electors of the village of Parkdale, voting upon such by-law in the manner required by the Municipal Act and amending Acts, now passed or hereafter to be passed, for the submission of by-laws to the electors, and such by-law may be in the form contained in schedule "A" to this Act; such debentures, when issued, shall be deposited in some of the chartered banks having an office in the city of Toronto, and the proceeds thereof, when sold, shall be deposited in some chartered bank in the city of Toronto to the credit of a special and separate account, and the same shall be paid out only in pursuance of a resolution of the council of the village of Parkdale, and on the cheque of the reeve thereof for the time being, and the chairman for the time being of the board of said commissioners. Power to issue debentures.

Application of
revenues.

40. After the construction of the works all the revenues arising from or out of the supplying of water or gas, or from the real or personal property connected with the said water-works and gas-works, or either, to be acquired by the said commissioners under this Act, shall, after providing for the expenses attendant upon the maintenance of the said works, be paid over to, and deposited monthly with the treasurer of the said corporation of the village of Parkdale, as hereinbefore provided, and shall make part of the general funds of the corporation and may be applied accordingly.

Exemption
from taxation.

41. The lands, buildings, machinery, reservoirs, pipes and all other real or personal property connected with or appertaining or belonging to the water-works or gas-works, or both, being within the village of Parkdale, shall be exempt from assessment and taxation.

Officers to be
ex-officio offi-
cers of the
peace.

42. The watchman and other officers of the said commissioners, when in discharge of their duty, shall be, *ex-officio*, possessed of all the powers and authorities of officers of the peace.

Commission-
ers, how ap-
pointed.

43. There shall be three commissioners, of whom the reeve of the village of Parkdale, for the time being shall be *ex-officio* one, and two of whom shall be elected by the ratepayers of the said village, qualified by municipal law to vote for councilmen, in manner and for the term hereinafter mentioned and provided, and the remuneration of the said commissioners shall be such as the council of the corporation of the village of Parkdale may by by-law, before their election, determine.

Term of office.

44. The said commissioners shall hold office for the term of one year, and until their successors are appointed and elected, except the commissioners first elected, who shall hold office until the first Monday of January next following their election; and after the said first election, the commissioners shall be elected to the said office at the same time and in the same manner as for the election of the reeve of the said village, and all the provisions and remedies of the Municipal Institutions Act at any time in force with respect to reeves shall apply in all particulars not inconsistent with this Act to the said commissioners, as to election, unseating, filling vacancies, grounds of disqualification, and otherwise, and each commissioner so elected or appointed shall, during the whole period of his appointment or term of office, be possessed in his own right, or in right of his wife, of a legal or equitable freehold, within the village of Parkdale, of the value of three thousand dollars, over and above all incumbrances, or six thousand dollars in leasehold estate, and who shall, before taking office, make oath to such qualification before some justice of the peace in the county of York.

Qualification.

45. Whenever the by-law authorizing the construction of the said water-works and gas-works, or either, shall have been finally passed by the council, a meeting of the electors of the said village shall take place, for the nomination of two persons for the office of water and gas commissioners, at such place as the council shall by by-law appoint, and the proceedings at such meeting shall be similar to those in the case of the nomination for reeve; but in case it becomes necessary to adjourn the proceedings by reason of more than the necessary number of candidates being proposed, such adjournment for holding the election shall be until the first Wednesday thereafter, being not less than five clear days, when a poll shall be opened in the said village at the places, or near thereto, where the then last municipal election was held, and in all particulars the election shall be conducted in like manner as an election for reeve; but the provisions of this section shall not prevent the first election of such commissioners from being held at the same time as the annual election of municipal councillors.

First election
of commis-
sioners.

46. A commissioner may resign his office, and shall cease to hold office for the same causes as by municipal law the seat of a councilman in the council becomes vacant; in case of a vacancy in the office of commissioner during the term of his office, the council of the corporation of the village of Parkdale shall appoint a person to fill the vacancy, and the person so appointed shall hold office for the residue of the term for which his predecessor was elected or appointed or for which the office is to be filled.

Vacancies in
office.

47. No commissioner or councilman shall personally have or hold any contract in connection with said works, or be directly or indirectly interested in the same or any of them; no deputy-reeve or councilman shall be eligible for election or appointment as a commissioner, and no commissioner as councilman.

No commis-
sioner or
councilman to
hold contract
in connection
with works.

48. Notwithstanding the provisions of this Act authorizing the construction of the said water and gas-works through the agency of commissioners, the corporation of the village of Parkdale in the by-law authorizing the construction of said water-works and gas-works, or either, and referred to in the thirty-ninth section of this Act, may declare that the said water-works and gas-works, or either, shall not be constructed by or through the agency of commissioners, but instead thereof, that the said works shall be constructed directly by the said corporation of the village of Parkdale; and in case the said corporation shall so desire to construct the said works, then all the powers, rights, authorities, duties and liabilities by this Act, given to, granted or vested in or imposed on the said commissioners, shall be vested in the said corporation, and the council of the said corporation shall be vested with all the powers, privileges and immunities necessary for carrying into effect the intentions and objects of this Act.

Works may be
constructed
directly by
corporation.

49.

Power to use electric or other light in lieu of gas.

49. In case the corporation of the village of Parkdale shall desire to substitute the electric or other light in lieu of gas, they shall have full power so to do, and all the rights and privileges of this Act, as relating to the building of gas-works and the distribution and sale of gas, and the right to collect the rate therefor, and all other rights and privileges in connection therewith, shall apply also to such electric or other light.

Works may be constructed by a company or otherwise.

50. In case the corporation of the village of Parkdale shall not see fit to construct the said water-works or gas-works, or either, by or through the agency of commissioners or directly by the said corporation, the said corporation may, in the by-law referred to in the thirty-ninth section of this Act, declare it advisable to have the said works constructed either by a corporate company, or by any other person or persons, and the said corporation may grant aid for the construction in such manner as they may consider expedient.

Approval by electors of mode of construction necessary.

51. In case the corporation of the village of Parkdale shall desire to construct the said works by either of the modes provided by the last two preceding sections of this Act, such mode shall be first approved of by a majority of the qualified voters voting on any by-law to be submitted for that purpose; and the question or questions respecting the adoption of either of such modes may be submitted by the council of the said corporation for the approval of the qualified voters in the proposed by-law mentioned in the thirty-ninth section of this Act, and the votes shall be given on each specific question which may be submitted, or the same may be submitted separately.

Delegation of powers by corporation.

52. The council of the corporation of the village of Parkdale shall have full power by by-law to confer on any person or persons or corporations that may undertake the construction of the said works, all the powers, privileges and immunities necessary to acquire the lands, water and privileges necessary for the establishment and construction of said water-works or gas-works, or either, and the management thereof when constructed, which by this Act are conferred upon the commissioners or the corporation of the village of Parkdale or upon the said council.

Corporation may assume the construction of works.

53. The corporation of the said village, in case the construction of the works be entrusted to commissioners, as hereinbefore provided, may, by by-law, at any time assume the work, remove the commissioners, apportion their current year's salary, and proceed with the works, and, in such case, all the rights, powers, authorities, duties and liabilities by this Act given to, granted or vested in the said commissioners shall be vested in the said corporation, which shall also be vested with, and have all the powers, privileges and immunities necessary for carrying into effect the intentions and objects of this Act.

54. Provided always that none of the rights or powers given to or vested in the said commissioners by this Act shall be used or exercised by them within the city of Toronto, the village of Yorkville, or the village of Brockton, save to such extent and in such manner as the council of the said city or of either of the said villages, as the case may be, may with respect to its own municipality from time to time by by-law in that behalf permit and authorize, and always subject to and upon the terms, conditions and restrictions in any such by-law contained; and no such by-law shall be passed by any such council unless and until two weeks previous notice of the intention to introduce such by-law shall have been first given at a meeting of such council.

Powers not to be exercised in Toronto, etc., without special authority.

SCHEDULE "A."

(Section 39.)

A by-law to provide for the issue of water-works debentures to the amount of \$ under the authority of "An Act respecting water and gas-works at Parkdale."

Whereas, the said recited Act authorizes the issue of debentures for the purposes therein mentioned to an amount not exceeding dollars; and whereas a by-law authorizing the construction of water-works and gas-works (or either) for the village of Parkdale, by the authority of the said recited Act, has been duly passed in accordance therewith, and the expenditure thereby authorized to be incurred is the sum of

Be it therefore enacted by the municipal council of the corporation of the village of Parkdale as follows:—

1. It shall be lawful for the corporation of the village of Parkdale to raise by way of loan from any person or body corporate who may be willing to advance the same, upon the credit of the debentures hereinafter mentioned, a sum of money, not exceeding in the whole the sum of dollars, and to cause the same to be paid into the Bank of at the City of Toronto, to be kept and applied in the manner provided in section thirty-nine of the said Act.

2. The reeve may cause any number of debentures, which shall be marked and known as water-works debentures, to be made for such sums as may be required, but not for less than one hundred dollars, or twenty pounds of sterling money of Great Britain each, and such debentures shall be made under the common seal of the said village, and signed by the reeve and treasurer thereof.

3. The said debentures shall be made payable in years at furthest, from the date of the respective issue thereof, either in sterling money of Great Britain, or currency of this Province,

Province, or Great Britain, or elsewhere, and shall have attached to them coupons for the payment of interest.

4. The said debentures shall bear interest after the rate of per centum per annum from the date thereof, and the interest shall be payable half-yearly, on the first days of January and July in each and every year.

Passed in open council on the _____ day _____ in the year of our Lord one thousand eight hundred and eighty _____, and given under the corporate seal of the said municipality.

Clerk.

Reeve.

L.S.

CHAPTER 45.

An Act to change the name of the Village of Petersville to London West.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS it appears by the petition of the municipal council of the village of Petersville in the county of Middlesex that the said village lies to the west of the city of London, from which it is separated by the river Thames, and that the name of Petersville is an inappropriate one for the said village, and that the ratepayers of the village are desirous of changing the said name of the village; and whereas the said municipal corporation of the village of Petersville have by their said petition prayed that the name of the said village be changed to London West, and it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Name changed
to London
West.

1. The name of the corporation of the village of Petersville, in the county of Middlesex, shall be and is hereby changed to London West, and the corporate name of the said village is hereby declared to be "The Corporation of the Village of London West."

Obligations,
etc., not
affected.

2. Nothing in this Act contained shall in any way affect the validity of any by-law of the said corporation of the village of Petersville, or of any debts, debentures or other obligations of the

the said corporation, and all rights, powers, debts, duties and obligations of the said corporation of the village of Petersville shall be vested in, assumed by and be and remain the rights, powers, debts, duties and obligations of the said corporation of the village of London West.

CHAPTER 46.

An Act to incorporate the City of St. Thomas.

[Assented to 4th March, 1881.]

WHEREAS by an Act passed by the late Province of Preamble.
Canada, in the twenty-third year of Her Majesty's reign, intituled "An Act to incorporate the town of St. Thomas," the said town was divided into three wards, named respectively St. Andrew's Ward, St. George's Ward and St. Patrick's Ward; and by a certain other Act of the Province of Ontario, passed in the thirty-fourth year of Her Majesty's reign, intituled "An Act to extend the limits of the corporation of the town of St. Thomas," a large tract of land was annexed to said town and named St. David's Ward, and by said last mentioned Act it is provided that the lands included in said ward and so annexed to the said town, should not be liable for any portion of the indebtedness contracted by the corporation of the said town prior to the passing of the said Act, except in respect of a bonus of twenty-five thousand dollars granted to the Canada Southern Railway Company, nor entitled to any of the assets possessed by the corporation of the town of St. Thomas prior to such annexation; and whereas the limits of the said town have been further extended by proclamation published in the *Ontario Gazette*; and whereas a special rate of three mills and nine-tenths of a mill on the dollar on the assessed value of the said town was provided by the by-law granting said bonus of twenty-five thousand dollars to the Canada Southern Railway Company, to be levied annually and set apart for the payment of interest and as a sinking fund for the redemption of the debentures issued thereunder; and whereas the assessment roll of said town has, since the passing of said by-law, increased three-fold, and the levying of said rate would by this time have yielded a much larger sum than the amount required to redeem said debentures and the payment of the interest thereon, owing to such increase of assessable property, while the said rate would, if levied annually until the maturity of said debentures, yield an amount more than treble the amount of the said debentures; and whereas said sinking fund has never been set apart by the treasurer or council of said town, though the interest upon
said

said debentures has always been duly paid; and whereas the corporation of the town of St. Thomas have, by their petition, represented that the said town contains a population of upwards of ten thousand souls, and that the said population is rapidly increasing, and that by reason of its increased and extensive railway facilities, its large mercantile interests, and its situation in the midst of a rich agricultural district, the said town is now, and will continue to be, an important commercial centre; and whereas the said corporation of the town of St. Thomas have been, for some years, separated from the county of Elgin for municipal purposes; and whereas the said corporation have by their petition also asked and prayed to be incorporated as a city, to be called "The city of St. Thomas," and also to have the limits thereof extended, by adding thereto the lands and premises hereinafter mentioned, and to have the said city divided into six wards; and whereas the said corporation have set forth, in their said petition, that the ratepayers in St. David's Ward of said town have agreed to become equally liable with the remaining three wards of said town for all the liabilities and indebtedness thereof, provided the present water-works system be extended for fire protection along Talbot street eastward as far as Balaclava street, in said ward, provided said ward gets a proportionate share of all the assets possessed by the said town; and whereas the said corporation have petitioned to have the assets held as separate property by a portion of said town vested equally in the whole city, and to have all the wards thereof made equally liable for the existing indebtedness of the said town, and also to make it compulsory upon the corporation of the city of St. Thomas to extend the water-works system as aforesaid, and for the right and power to construct a main sewer or outlet for the drainage of said city, and to issue debentures to defray the expense thereof; and whereas a by-law has been passed by said town granting fifty thousand dollars in debentures of said town to assist the construction of the Credit Valley Railway from Ingersoll to St. Thomas, which by-law provides that said debentures shall not be delivered until an Act be passed incorporating said town as a city, extending its limits, redistributing its wards, equalizing taxation, and extending the water-works therein as aforesaid; and whereas the Canada Southern Railway Company and the Credit Valley Railway Company have assented to such of the provisions of this Act hereinafter contained as affect or relate to them respectively; and whereas it is expedient to grant the prayer of said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Incorporation
of city of St.
Thomas.

1. On and after the passing of this Act, the said town of St. Thomas shall be and is hereby incorporated as a city, and shall be known hereafter as the corporation of the city of St. Thomas,

Thomas, and as such shall enjoy and possess all the rights, powers and privileges which could have been exercised and enjoyed by the said city of St. Thomas if the same had been incorporated as a city under the provisions of the Municipal Act, except when otherwise provided by this Act.

2. The lands and premises following, that is to say, the south halves of lots numbers four and five and that portion of the west half of the south half of lot number six which lies west of the centre line of First Avenue produced southward to the concession road, in the eighth concession of the township of Yarmouth in the county of Elgin, together with all that strip of land lying north of the present northern boundary of said town, and between such northern boundary and a line one hundred and thirty-two feet north of and parallel to the northerly limit of Barwick street, said strip of land commencing at a line produced due north from the point of intersection of the west limit of Hiawatha street with the lands of the Great Western Railway Company and continuing to the centre line of First Avenue produced northward; also that portion of the west half of the south half of lot number six in the ninth concession of Yarmouth aforesaid, which lies west of the centre line of First Avenue produced northward, shall be detached from the township of Yarmouth and added to the existing limits of the said town, and form part of the said city of St. Thomas; and all that portion of the north half of the west half of lot number six in the said eighth concession, which lies east of the centre line of First Avenue aforesaid, and which may heretofore have been within the limits of said town of St. Thomas, is hereby detached from the town of St. Thomas and added to the township of Yarmouth; but that portion of the north half of lot number six in the eighth concession of the township of Yarmouth, situate on the north-west corner thereof, known as the Willoughby Clarke one half acre, being the half acre referred to in chapter fifty-nine of the Statutes of Ontario, passed in the thirty-fourth year of her Majesty's reign, shall not be included within the limits of said city, but shall remain as heretofore a portion of the township of Yarmouth.

3. Notwithstanding anything contained in the several Acts, or in the proclamation in the preamble to this Act mentioned, the city of St. Thomas shall be divided into six wards, in the manner described in the schedule to this Act, to be named respectively First Ward, Second Ward, Third Ward, Fourth Ward, Fifth Ward and Sixth Ward, and all the property and assets of the said town of St. Thomas shall belong to the city of St. Thomas generally, and without any distinction, and all the debts, liabilities and obligations of the said town of St. Thomas shall be assumed and paid by the corporation of the city of St. Thomas, and shall be levied without any discrimination as to the wards thereof, and the said corporation shall

shall, within one year from the date of incorporation as a city as aforesaid, extend the system of water-works now in use in said town along Talbot street eastward as far as Balaclava street; and the officers and servants of the said town of St. Thomas shall, until superseded in, or removed from office by the council of the said city, remain the officers and servants of the said city of St. Thomas.

Municipal Act to apply.

4. The provisions of the Municipal Act relating to matters consequent upon the formation of new municipal corporations, and the other provisions of the Municipal Act aforesaid, shall, except so far as herein otherwise provided, apply to the said corporation of the city of St. Thomas in the same manner as if the said town had been erected into a city under the provisions of the Municipal Act.

Mayor and council of town to remain in office.

5. The present mayor and council of the said town shall be and continue to be the mayor and council of the said city, and shall hold office until the election of their successors, as provided by the Municipal Act, and shall exercise all the rights and powers and perform all the duties pertaining to the offices of mayor and aldermen respectively of a city, and in the event of death, resignation or disqualification of said mayor, or any member of said council, a new election shall be held to fill the vacancy under the provisions of the Municipal Act, and the qualified voters of the ward represented by any such member, immediately prior to the passing of this Act, shall be the persons entitled to vote at any such new election.

Qualification of electors, etc.

6. At any election in the said city held prior to the first day of February next after the passing of this Act, the qualification of the electors, mayor, aldermen and officers respectively, shall be the same respectively as required for electors, mayor, councillors, and officers respectively, in towns, and at all subsequent elections the qualifications of the electors, mayor, aldermen and officers, shall be the same as that required in cities.

First election of mayor.

7. Henry Francis Ellis, of the said town of St. Thomas esquire, who is now the clerk thereof, or in case of his death or inability to act, such other person as the council of the said town may, by by-law, to be passed before the last Monday in the month of December next, appoint in his stead, is hereby appointed the returning officer for the purpose of holding the nomination for the first election of mayor, and it shall be lawful for, and incumbent upon the returning officer to hold such nomination at the city hall, in the city of St. Thomas, at the hour of ten o'clock in the forenoon of the said last Monday in the month of December.

Powers and duties of returning officer.

8. The said returning officer shall have all the powers and perform all the duties of clerk of the said city until the appointment

pointment by the council thereof of some other person in his place and stead.

9. Notwithstanding anything contained in the Municipal Act to the contrary, the council of the said city to be elected as aforesaid, shall consist of a mayor, who shall be the head thereof, and twelve aldermen, two aldermen being elected for each ward, but all the other provisions of law relating to municipal elections, shall apply to the elections in said city; and the said council and their successors in office, shall have, use, exercise and enjoy all the powers and privileges vested by the said municipal law in city councils, and shall be subject to all the liabilities and duties imposed by the said municipal laws on such councils.

Constitution of council.

10. Notwithstanding any statute to the contrary, the said city council shall have power to organize or continue a police force, and to regulate and control the same, and the members thereof, and to fix the salary and allowances of said members, and in the said city the provisions of the said Municipal Act respecting police commissioners, shall not apply or be of any effect, unless and until adopted by by-law of the said city council; but this section shall not apply or have any power or effect after it shall appear from any general census, or from any census which may be taken by the assessor, or under a by-law of the municipality, that the said city contains fifteen thousand inhabitants or more.

Power to organize police force.

11. And whereas, in order to find an outlet for the drainage of said city, it will be necessary to construct a large sewer from Talbot street along Elgin street, to and through a ravine south of Wellington street and west of Elgin street, and along the flats known as the Blackwood flats, to Kettle Creek, at the south-westerly limit of the said town, which said sewer will not benefit any of the owners or occupants through whose lands it may pass, after the same diverges from Elgin street, but will be a general benefit to the whole of the ratepayers of said city, and it is desirable that the cost of constructing said main sewer or outlet should be borne and paid by the whole city, except such proportion thereof as would be required to construct an ordinary sewer along Elgin street sufficient for the drainage of the lots fronting on said street, so far as said main sewer shall follow Elgin street: Therefore it is enacted that it shall and may be lawful for the council of the said city, when, and so soon as they are prepared to construct said main sewer or outlet for the drainage of said city, to issue debentures for such sum or sums as may be required to defray the cost of constructing said main sewer or outlet from Talbot street southward to a point at Kettle Creek, being at the south-westerly limit of said town of St. Thomas, which said debentures shall be a charge upon the whole city; but nevertheless, it shall be lawful for the council of said city to receive

Power as to drainage.

ceive and collect from the owners or occupants of lots on Elgin street aforesaid, abutting on said main sewer or outlet, such proportion of the cost of constructing said main sewer or outlet, not exceeding the sum of fifty cents per foot for each foot frontage of any lot, as would be required to construct an ordinary sewer along said street, sufficient for the drainage of all the adjacent property, which said proportion may be ascertained by any competent engineer who may be appointed by said council for that purpose: Provided always, that no such debentures shall issue unless and until the by-law or by-laws creating the same, shall have been submitted and assented to by the electors of the said city, in the manner required by, and in compliance with, the provisions of the Municipal Act in that behalf.

Provisions as to payment of debentures issued for bonus to Canada Southern Railway.

12. The corporation of the said city shall not after the passing of this Act levy the rate provided for by the by-law granting said bonus of twenty-five thousand dollars to the Canada Southern Railway Company, but shall hereafter, during the currency of the debentures issued under the said by-law, levy and raise the annual sum of fifteen hundred dollars, and apply the same in payment of the interest on such debentures as the same becomes payable. The bonds of the London and Port Stanley Railway Company to the amount of six thousand five hundred pounds sterling, now belonging to the said corporation, being sixty-five first mortgage bonds, each for the sum of one hundred pounds sterling, bearing date the first day of February A.D. eighteen hundred and fifty five, and numbered respectively from seven hundred and fifty-seven to eight hundred and twenty-one inclusive, shall be specially held by and are hereby specially charged in the hands of the corporation of the said city as a security to the holders of such debentures for the payment of such debentures at maturity, and so long as the interest on such debentures is regularly paid the said corporation may use the interest received by them on such bonds for such purposes as they think proper, but the said bonds or the proceeds thereof, to the extent of twenty-five thousand dollars, if sold, shall not be used for or applied to any other purpose than the payment of such debentures, provided always that the said corporation may at any time in their discretion sell the said bonds, but not at a less price than twenty-five thousand dollars for the whole or after that rate for a part thereof, and in the event of any such sale or sales, they shall invest the proceeds thereof to the amount of twenty-five thousand dollars in securities as provided for by section three hundred and fifty-eight of the Municipal Act, and such bonds or the proceeds thereof, to the extent of twenty-five thousand dollars, or the securities in which the same may be invested, as the case may be, shall be applicable to the redemption of such debentures, and shall not be used or applied for any other purpose until all the said debentures and interest thereon be fully paid.

13.

13. Notwithstanding anything contained in the by-law of the said town of St. Thomas granting the sum of fifty thousand dollars in debentures of the said town to aid the Credit Valley Railway Company in the extension of their line from Ingersoll to the town of St. Thomas, the corporation of the city of St. Thomas shall, so soon as the said company shall have given to the corporation of the said city the bond in the said by-law mentioned, deliver the said debentures to the trustees therein mentioned, but the said trustees shall not hand over the said debentures to the said company until the said company shall have run a train of cars over their said extension from Ingersoll to St. Thomas; nor until the said trustees have cut off and destroyed all coupons for interest up to the gale day next preceding the running of the said train, and the said by-law and the debentures issued thereunder are, notwithstanding any other conditions contained therein, hereby declared to be legal and valid: Provided always that said debentures shall be delivered up by said trustees to the corporation of said city to be cancelled at the expiration of five years from the passing of this Act, should the said extension not be completed by that date so as to permit a train to run between Ingersoll and St. Thomas.

Delivery of debentures for bonus to Credit Valley Railway to trustees, when to be made.

14. In the event of the said bonus so granted to the Credit Valley Railway Company being transferred under any Act of the Legislature of Ontario to any other company, the conditions upon which the said bonus has been granted shall be binding upon the said company, and the bond of the said company for the due fulfilment thereof shall, in addition to the bond of the Credit Valley Railway Company, be given to the corporation of said city before the said debentures shall be issued and handed over as aforesaid; and the corporation of the said city shall be entitled to appoint a director upon the board of the said company to which said bonus may be transferred in the manner provided in the Acts relating to the Credit Valley Railway Company.

Company to which Credit Valley Railway bonus transferred to give bond to city.

15. The taxes to be paid by the Canada Southern Railway Company to the said city upon all their real property lying north of Wellington street in the said city, and all property of the company used for railway purposes, extending to the west limit of the said city, and upon all their personal property in the said city including all water pipes and hydrants and other property used or held in connection with their water-works system within the corporation of said city, provided said water-works are not used for any other purpose than fire protection, and the supply of water for their own use, shall be commuted by the said city for the term of fifteen years as follows, namely, fifteen hundred dollars per year for five years from the year one thousand eight hundred and eighty-two to the year one thousand eight hundred and eighty-six inclusive, two thousand dollars per year for five years from the

Commutation of taxes to be paid by Canada Southern Railway.

the year one thousand eight hundred and eighty-seven to the year one thousand eight hundred and ninety-one inclusive, and two thousand five hundred dollars per year for five years from the year one thousand eight hundred and ninety-two to the year one thousand eight hundred and ninety-six inclusive, the said several sums to cover all taxes, rates and assessments whatsoever against said company's property adjoining the north boundary of Centre street, in said city, but nothing herein contained shall free any of the property of said company other than said property adjoining Centre street on the north from local or frontage rates, taxes or assessments; Provided also, that so soon as any of the property of said company may be sold or leased, the same shall forthwith be liable to the same rates, taxes and assessments as other private property in the said city.

SCHEDULE.

(Section 3.)

1. First Ward shall comprise all that part of the said city which is bounded on the southwest and north by Kettle Creek, on the east by a line in the centre of Margaret, William, and New streets, to be produced, north and south until it intersects Kettle Creek.

2. Second Ward shall comprise all that part of the said city, which is bounded on the west by the eastern boundary of First ward, on the north by Kettle Creek, on the east by a line in the centre of Pearl and Metcalfe streets, to be produced, north and south until it intersects Kettle Creek, and on the south by Kettle Creek.

3. Third Ward shall comprise all that part of the said city which is bounded on the west by the eastern boundary of Second Ward, on the north by the present boundary of said city, on the south by the northern boundary of the road allowance between the seventh and eighth concessions of the township of Yarmouth and Kettle Creek. The eastern boundary is described as follows:—Commencing at the intersection of the centre of East Avenue, with the boundary of lot number three, formerly in the eighth concession of the township of Yarmouth, thence north along a line in the centre of East Avenue, and produced, to the limit between the north and south halves of said lot number three, thence west along said limit to where a line in the centre of Southwick street produced, south would intersect said limit, thence northerly along the centre of Southwick, Francis, and Hiawatha streets, to the southern boundary of the Great Western Railway grounds, thence due north to a point one hundred and thirty-two feet north of the north boundary of Barwick street, produced.

4. Fourth Ward shall comprise all that part of the said city, which is bounded on the west by the eastern boundary of Third Ward, on the south by the northern limit of the road allowance

allowance between the seventh and eighth concessions of the township of Yarmouth, on the east by a line in the centre of Flora street, to be produced, north to a point one hundred and thirty-two feet north of the north boundary of Barwick street, and a line in the centre of Ross street, to be produced, south to the northern limit of the road allowance between the seventh and eighth concessions of the township of Yarmouth, on the north by a line one hundred and thirty-two feet north of the north boundary of Barwick street, produced.

5. Fifth Ward shall comprise all that part of the said city, which is bounded on the west by the eastern boundary of Fourth Ward, on the south by the northern limit of the road allowance between the seventh and eighth concessions of the township of Yarmouth, on the east by a line in the centre of Fourth Avenue, and a line in the centre of Balaclava street, to be produced, south to Wellington street, and north to a point one hundred and thirty-two feet north of the north boundary of Barwick street, produced; on the north by a line one hundred and thirty-two feet north of the north boundary of Barwick street, produced.

6. Sixth Ward shall comprise all that part of the said city which is bounded on the west by the eastern boundary of Fifth Ward, on the south by the northern limit of the road allowance between the seventh and eighth concessions of the township of Yarmouth, on the east by a line in the centre of First Avenue produced north to a point one hundred and thirty two feet north of the north boundary of Barwick street produced and produced south to the northern limit of the road allowance between the seventh and eighth concessions of the said township of Yarmouth; on the north by a line one hundred and thirty-two feet north of the north boundary of Barwick street produced; excepting thereout, however, that portion of the north half of lot number six in the eighth concession of the said township of Yarmouth situate in the north-west corner thereof, known as the Willoughby Clarke one-half acre, being the one half acre referred to in chapter fifty-nine of the Statutes of Ontario, passed in the thirty-fourth year of Her Majesty's reign.

CHAPTER 47.

An Act respecting the Debenture Debt of the County of Simcoe.

[Assented to 4th March, 1881.]

WHEREAS the corporation of the county of Simcoe has Preamble.
an outstanding debenture debt of sixty-nine thousand dollars which matures on or about the thirty-first day of December, one thousand eight hundred and eighty-one; and
whereas

whereas the said corporation propose to pass a by-law for the issue of new debentures of the said county for the said sum of sixty-nine thousand dollars, on which to raise money sufficient to repay the said outstanding debt, such debt incurred through said new debentures to be repayable by instalments during a period of fifteen years; and whereas the said corporation has prayed that an Act be passed to empower the said corporation to finally pass the said by-law without submitting the same to the electors of the municipality for their assent; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Debts consolidated at the sum of \$69,000.

Power to borrow.

1. It shall and may be lawful to and for the said corporation of the county of Simcoe to raise by way of loan upon the credit of the debentures hereinafter mentioned, and by this Act authorized to be issued, from any person or persons, body or bodies corporate, either in this Province, in Great Britain or elsewhere, who may be willing to lend the same, a sum of money not exceeding sixty-nine thousand dollars of the lawful money of Canada.

Authority to pass by-law for new debentures.

2. It shall and may be lawful for the said corporation of the county of Simcoe to pass a by-law or by-laws authorizing the said loan of sixty-nine thousand dollars, and the issuing of the debentures therefor, in accordance with this Act, and to impose in and by said by-law or by-laws, a special rate per annum, on the whole ratable property of the said municipality, to be called "The Consolidated Loan Rate," over and above and in addition to all other rates to be levied in each year, which shall be duly levied in each year, and shall be sufficient to pay the sums falling due annually for interest, and to provide a fund for the due payment of the principal when the same shall fall due of the said debentures last mentioned.

Assent of electors to by-law not required.

3. It shall not be necessary to obtain the assent of the electors of the said county to the passing of any by-law under this Act, or to observe the formalities in relation thereto, prescribed by the Municipal Act.

Debentures may be issued to the amount of \$69,000.

4. It shall and may be lawful for the municipal council of the said corporation of the county of Simcoe, after the passing of such by-law or by-laws authorizing the same, in accordance with this Act, to cause to be issued debentures of the said corporation, under the corporate seal, signed by the warden and countersigned by the treasurer and clerk of the said county for the time being, for such sums not exceeding in the whole the said sum of sixty-nine thousand dollars, as the said council shall direct and appoint, bearing interest at a rate not to exceed six per centum per annum, payable half-yearly.

5.

5. The principal sum to be secured by the debentures to be issued under the preceding section of this Act shall be payable either in sterling or currency, and the same with the interest accruing thereon, may be made payable, either in this Province, in Great Britain or elsewhere, as the said council may by the by-law or by-laws direct or shall deem expedient, and a portion of the said debentures issued under any such by-law shall be made payable in each year for fifteen years from the time at which the by-law authorizing the issue of the same shall take effect, and so that the sums to be levied for principal and interest shall be as nearly equal in each year as may be, and it shall not be necessary to levy for or provide any sinking fund to retire the said debentures.

Debentures,
when and how
payable.

6. The funds derived from the negotiation and sale of the said debentures shall be applied in and to the payment of the said debt of sixty-nine thousand dollars, and not otherwise, and shall for that purpose be deposited until required in the agency of a chartered bank of Canada, at the town of Barrie or elsewhere in this Province, or invested in government securities or stock, either of the Dominion of Canada or the Province of Ontario, upon such terms as the said municipal council and such bank or government shall from time to time agree upon, and shall only be withdrawn therefrom as the same may be required from time to time for the payment and redemption of the said outstanding debenture debt, or any part thereof, and not otherwise.

Application
of proceeds.

7. The treasurer of the said county shall, on receiving instructions from the said council so to do, from time to time, but only with the consent of the holders thereof, call in any of the said outstanding debentures and liabilities specially provided for by this Act, and shall discharge and satisfy the same with the funds raised under this Act, or may, with the like consent, substitute therefor the said debentures, or any of them above authorized to be issued by this Act, upon such terms as may be agreed upon between the said council and the said holders of said outstanding debentures.

Outstanding
debentures
may be called
in.

8. Any by-law to be passed under the second section of this Act, and in pursuance of the provisions of this Act, authorizing the said loan, shall not be repealed until the debt created under such by law and the interest thereon shall be paid and satisfied.

By-law not to
be repealed
until debt
satisfied.

9. The said municipal council shall, and it shall be the duty of the treasurer of the said county for the time being, to invest from time to time, all moneys raised by the special rate provided by this Act, and the by-law or by-laws imposing the same, or derived from the investment of the said moneys as hereinafter mentioned, less the interest payable in respect of the said debentures to be issued in pursuance of this Act for the

Investment
sinking fund.

Payment of
interest.

the then current year, in either the bank or government securities mentioned in the sixth section of this Act, as the said council shall direct, and upon such terms as the said council and bank or government shall agree upon, and such moneys shall only be withdrawn therefrom as the same may be required from time to time for the payment and redemption of the said last-mentioned debentures, or the said outstanding debentures, or any part thereof, and to apply the residue of such moneys from time to time, to the payment of the interest on the said debentures, and not otherwise, nor for any other purpose whatever.

Inconsistent
provisions in
Municipal
Acts not to
apply.

Irregularity
not to render
by-law or
debentures
invalid.

10. Any provisions in the Acts respecting municipal institutions in the Province of Ontario, which are or may be inconsistent with the provisions of this Act, or any of them, shall not apply to the by-law or by-laws to be passed by the said corporation under the provisions of this Act, and no irregularity in the form, either of the said debentures authorized to be issued by this Act, or of the by-law or by-laws authorizing the issuing thereof, shall render the same invalid, or illegal, or be allowed as a defence to any action brought against the said corporation for the recovery of the amount of the said debentures and interest, or any or either of them or any part thereof.

Liability of
corporation
not discharged.

11. Nothing in this Act contained, shall be held or taken to discharge the corporation of the county of Simcoe from any indebtedness or liability which may not be included in the said debt of sixty-nine thousand dollars.

CHAPTER 48.

An Act to Consolidate the Debt of the Town of Windsor.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the Corporation of the Town of Windsor, by their petition, have represented that they have incurred debts and liabilities for the construction of water-works to the amount of one hundred and twenty-seven thousand dollars, and for other purposes to the amount of one hundred and eight thousand dollars, both sums being secured by the debentures of the corporation, and they have also incurred other liabilities to the amount of thirty thousand dollars; that the redemption of the debentures representing the said debt has been so irregularly arranged as to become at times oppressive to the ratepayers, and have therefore prayed that the said debt may be consolidated, and that they may be authorized to issue debentures for that purpose; and whereas it is expedient

ent to grant the prayer of the said petition, and in order to provide against any loss on the said consolidation, it is expedient to enable the said corporation to issue such debentures for a sum not exceeding two hundred and seventy thousand dollars;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said debts of the corporation of the town of Windsor are hereby consolidated at the sum of two hundred and seventy thousand dollars, and it shall and may be lawful to and for the said corporation of the town of Windsor to raise by way of loan upon the credit of the debentures hereinafter mentioned, and by this Act authorized to be issued, from any person or persons, body or bodies corporate, either in this Province, in Great Britain or elsewhere, who may be willing to lend the same, a sum of money not exceeding two hundred and seventy thousand dollars of the lawful money of Canada.

Debts consolidated at the sum of \$270,000.

Power to borrow.

2. It shall and may be lawful for the said corporation of the town of Windsor, to pass a by-law or by-laws, authorizing the said loan of two hundred and seventy thousand dollars, and the issuing of the debentures therefor, in accordance with this Act, and to impose in and by said by-law or by-laws, a special rate per annum, on the whole ratable property of the said municipality, to be called "The Consolidated Loan Rate," over and above, and in addition to all other rates to be levied in each year, which shall be duly levied in each year, and shall be sufficient to pay the sums falling due annually, for interest, and to provide a fund for the due payment of the principal when the same shall fall due, of the said debentures last mentioned.

Authority to pass by-law for new debentures.

3. It shall not be necessary to obtain the assent of the electors of the said town to the passing of any by-law under this Act, or to observe the formalities in relation thereto prescribed by "The Municipal Act."

Assent of electors to by-laws not required.

4. It shall and may be lawful for the municipal council of the said corporation of the town of Windsor after the passing of such by-law or by-laws, authorizing the same, in accordance with this Act, to cause to be issued debentures of the said corporation, under the corporate seal, signed by the mayor and countersigned by the treasurer and clerk of the said town, for the time being, for such sums not exceeding in the whole the said sum of two hundred and seventy thousand dollars, as the said council shall direct and appoint, bearing interest at a rate not to exceed six per centum per annum, payable half-yearly.

Debentures may be issued to the amount of \$270,000.

5. The principal sum to be secured by the debentures to be issued under the preceding section of this Act shall be payable either in sterling or currency, and the same with the interest accruing thereon, may be made payable, either in this Province, in Great Britain or elsewhere, as the said council may

Debentures, when and how payable.

may, by the by-law or by-laws direct or shall deem expedient, and a portion of the said debentures issued under any such by-law shall be made payable in each year, for thirty years, from the time at which the by-law authorizing the issue of the same shall take effect, and so that the sums to be levied for principal and interest shall be as nearly equal in each year as may be, and it shall not be necessary to levy for or provide any sinking fund to retire the said debentures.

Application of
proceeds.

6. The funds derived from the negotiation and sale of the said debentures, shall be applied in and to the payment of the said debts of two hundred and seventy thousand dollars, and not otherwise, and shall for that purpose be deposited until required in the agency of a chartered bank of Canada, at the town of Windsor or elsewhere in this Province, or invested in government securities or stock, either of the Dominion of Canada or the Province of Ontario, upon such terms as the said municipal council, and such bank or government shall from time to time agree upon, and shall only be withdrawn therefrom as the same may be required from time to time for the payment and redemption of the said outstanding debenture debt and other liabilities, or any part thereof, and not otherwise.

Outstanding
debentures
may be called
in.

7. The treasurer of the said town shall, on receiving instructions from the said council, so to do, from time to time, but only with the consent of the holders thereof, call in any of the said outstanding debentures and liabilities, specially provided for by this Act, and shall discharge and satisfy the same with the funds raised under this Act, or may, with the like consent substitute therefor, the said debentures, or any of them above authorized to be issued by this Act, upon such terms as may be agreed upon between the said council and the said holders of said outstanding debentures.

By-law not to
be repealed un-
til debt
satisfied.

8. Any by-law to be passed under the second section of this Act, and in pursuance of the provisions of this Act, authorizing the said loan, shall not be repealed until the debt created under such by-law, and the interest thereon shall be paid and satisfied.

Investment of
sinking fund.

9. The said municipal council shall, and it shall be the duty of the treasurer of the said town for the time being, to invest from time to time, all moneys raised by the special rate provided by this Act, and the by-law or by-laws imposing the same, or derived from the investment of the said moneys as hereinafter mentioned, less the interest, payable in respect of the said debentures, to be issued in pursuance of this Act for the then current year, in either the bank or government securities mentioned in the sixth section of this Act, as the said council shall direct, and upon such terms as the said council and bank or government shall agree upon, and such moneys shall only be withdrawn therefrom as the same may be required from time to time for the payment and redemption of the said last-mentioned debentures,

tures, or the said outstanding debentures and other liabilities. or any part thereof, and to apply the residue of such moneys from time to time, to the payment of the interest on the said debentures, and not otherwise, nor for any other purpose whatever.

Payment of interest.

10. Any provisions in the Acts respecting municipal institutions in the Province of Ontario, which are or may be inconsistent with the provisions of this Act, or any of them, shall not apply to the by-law or by-laws to be passed by the said corporation under the provisions of this Act, and no irregularity in the form, either of the said debentures, authorized to be issued by this Act, or of the by-law or by-laws authorizing the issuing thereof, shall render the same invalid, or illegal, or be allowed as a defence to any action brought against the said corporation for the recovery of the amount of the said debentures and interest, or any or either of them or any part thereof.

Inconsistent provisions in Municipal Acts not to apply.

Irregularity not to render by-law or debentures invalid.

11. Nothing in this Act contained, shall be held or taken to discharge the corporation of the town of Windsor from any indebtedness or liability which may not be included in the said debt of two hundred and seventy thousand dollars.

Liability of corporation not discharged.

CHAPTER 49.

An Act to transfer the securities of the Anglo-Canadian Mortgage Company to the Omnium Securities Company (Limited).

[Assented to 4th March, 1881.]

WHEREAS The Anglo-Canadian Mortgage Company, a corporation of Ontario, organized under the laws relating to Building and Loan Societies, having its head office at the City of Hamilton, in the Province of Ontario, has agreed to sell all its mortgages and other assets to The Omnium Securities Company (Limited), a corporation organized under the general Joint Stock Companies' Acts of Great Britain and Ireland, having its head office in the City of London, England, and being duly licensed to do business in the Province of Ontario, under the provisions of chapter one hundred and sixty-three of the Revised Statutes of Ontario; and whereas the said The Anglo-Canadian Mortgage Company has petitioned for an Act to vest in the said The Omnium Securities Company (Limited), all and every the mortgages and other securities of the said Mortgage Company, and to charge the same in the hands of the said The Omnium Securities Company (Limited) with the outstanding obligations of the said Mortgage Company to debenture holders and depositors, and to enable the said The Anglo-Canadian Mortgage Company to accept and receive the purchase moneys arising from the sale of the said securities, and to distribute the same to the shareholders of the said company, and to wind up the affairs of the said

Preamble.

said The Anglo-Canadian Mortgage Company, and it is expedient to grant the prayer of the said petition, all the holders of the debentures of the Anglo-Canadian Mortgage Company having, by their counsel in that behalf, consented thereto, and to the provisions hereinafter in this Act contained;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Assets of
Anglo-Can-
adian Mortgage
Company
transferred to
Omnium
Securities
Company.

1. All the indentures of mortgage, the covenants and agreements therein contained, and the moneys thereby secured and the lands thereby conveyed, which are now vested in or owned or are intended to be vested in or owned by The Anglo-Canadian Mortgage Company, and all other the lands and assets of the said company, save the purchase moneys for the said securities, for all the estate and interest of the said The Anglo-Canadian Mortgage Company, and subject only to the lien in favour of the debenture holders and depositors, the creditors of the said The Anglo-Canadian Mortgage Company, are hereby vested in and declared to be the property of the said The Omnium Securities Company (Limited), as fully and to the same extent and for the same estate as if the said mortgages and other securities had been originally taken by or made to the said The Omnium Securities Company (Limited), and they shall be entitled to sue or otherwise proceed on the said mortgages and securities in the name of the said The Omnium Securities Company (Limited), as fully as the said The Anglo-Canadian Mortgage Company might do if this Act had not been passed.

Assets to be
subject to lien
of debenture
holders and
depositors.

2. All the said securities, lands and assets by this Act vested in the said The Omnium Securities Company (Limited), and all other the securities, lands and assets of the said company, hereafter held by them in the Province of Ontario, which shall arise out of the re-investment of the moneys coming in upon said securities, shall stand charged with and shall be subject to a lien as for unpaid purchase money in favour of all the holders of the debentures issued by the said The Anglo-Canadian Mortgage Company, and of the depositors in the savings bank in the said last named company, and the said securities and the proceeds thereof shall be kept separate and apart from the other moneys and securities of the said The Omnium Securities Company (Limited): and the said debenture holders and depositors are hereby declared to be severally the creditors of the said The Omnium Securities Company (Limited), to the extent of their several and respective claims against The Anglo-Canadian Mortgage Company and interest, and to be severally entitled to enforce the said lien against the said securities, lands and assets upon default of payment of principal or interest or any part thereof: Provided the discharge of the mortgages and other securities by The Omnium Securities Company (Limited) to the said mortgagors or debtors shall be final and absolute, notwithstanding the said lien.

Proviso.

3. Until the said debentures are fully paid and satisfied, the said The Omnium Securities Company (Limited) shall not withdraw the moneys represented by the said securities from the Province of Ontario, but shall, as the same fall in, re-invest the same in the same class of securities, namely, securities authorized by the laws of the Province of Ontario to be taken by companies organized under the Building and Loan Association Acts, and Messrs. Frasers, Stodard & Ballingall, writers, Edinburgh, Scotland, on behalf of the said debenture holders; shall have a certified copy of each audit of the affairs of the said company in Ontario sent to them forthwith after its completion, and such audit shall be accompanied, at least once in the year, by a schedule of securities held by the said company, and which are subject to the said lien.

Until payment of debentures certain moneys not to be withdrawn from Ontario.

4. The manager and the advisory board, in Canada, of the said The Omnium Securities Company (Limited), namely, John F. Wood, George Roach, A. G. Ramsay, and Lyman Moore, esquires, shall have the custody and care of the said securities, and the proceeds thereof; and they and their survivors shall be a committee who shall have power, and whose duty it shall be, at the expense and cost of the said The Omnium Securities Company (Limited), to take all necessary steps to protect the interest and lien of the said debenture holders and depositors, as against the said securities and the proceeds thereof, and to see that re-investments are made in the terms of this Act, and that the said securities or proceeds thereof are not removed from the Province of Ontario, until the said debentures and deposits are fully paid, and in the event of default being made in the payment of the said debentures and deposits, or any of them, or of the coupons or interest thereon, it shall be the duty of the said committee, or of the survivors of them, to apply the said securities, or the proceeds thereof, as realized upon or collected, in and towards the payment of the said debentures and deposits, and the coupons and interest thereon, until the whole of the said debentures and deposits and the said coupons and interest, and all the expenses connected with the execution of the said trust are fully paid, and the said committee and the survivors of them are hereby appointed the attorneys irrevocably of the said The Omnium Securities Company (Limited), for the purpose of carrying out the provisions of sections two, three and four of this Act.

Provisions for the protection of debenture holders and depositors.

5. The purchase moneys of the said mortgages and securities, after deducting the amount of the said outstanding debentures and deposits left in the hands of the said The Omnium Securities Company (Limited), shall be applied by the directors of The Anglo-Canadian Mortgage Company as follows:

Application of purchase moneys.

(1) In paying all the debts and liabilities of the said The Anglo-Canadian Mortgage Company, other than the said debentures and deposits;

(2)

(2) In paying the cost of negotiating and carrying out the sale of the said securities and of procuring this Act and of carrying out the provisions thereof, and of paying the expenses of closing and winding up the business of the said company ;

(3) In paying back to the shareholders of the said The Anglo-Canadian Mortgage Company, according to the share register of the said company at the date of distribution, the amount of the capital stock subscribed and paid in to the said company, with interest or dividend at the rate of eight per centum per annum from the date of last dividend paid by the said The Anglo-Canadian Mortgage Company ;

(4) In paying the residue, if any, to the shareholders of the said company, *pro rata* according to the amount paid in by them respectively on their respective shares in the said The Anglo-Canadian Mortgage Company.

Discharging
claims of share-
holders by pay-
ment into
bank.

6. In the event of the death of any shareholder without administration being taken out, or in the event of any shareholder refusing to accept repayment of the moneys falling to him under the last clause hereof, or in the event of the same not being claimed within three months after the date of general distribution, the directors shall deposit to the credit of such shareholder or shareholders in the savings bank department of some one of the chartered banks doing business in this Province and having an office in the city of Hamilton, the amount which may be due in respect of such shares and premium, and shall mail a notice in writing or print to the last known address of such shareholder of such deposit, and such payment shall absolve and discharge such directors, and the said The Anglo-Canadian Mortgage Company from all liability to such shareholders in respect of such shares and the moneys arising therefrom.

Discharging
claims of
depositors by
payment into
bank.

7. The said The Omnium Securities Company (Limited) may deposit in the savings bank department of any one of the said chartered banks of this Province, having an office in Hamilton, any balance of principal moneys and interest due to any depositor in the savings bank of the said The Anglo-Canadian Mortgage Company, and by mailing a notice in writing to the last known post office address of such depositor of such deposit having been made, shall be absolved from further responsibility with respect to such depositor, to the said depositor, his assignee or representative.

Anglo-Can-
adian Mortgage
Company to
cease from
business.

8. From and after the passing of this Act, the said The Anglo-Canadian Mortgage Company shall cease to do business as a loan company, except for the purposes of carrying out the provisions of this Act and winding up, and, so far as the Legislature of Ontario hath authority so to enact, they shall not be liable to make any further returns under the provisions of the Acts relating to Building and Loan Societies.

CHAPTER

CHAPTER 50

An Act respecting the Canada Mortgage Agency,
(Limited).

[Assented to 4th March, 1881.]

WHEREAS the Canada Mortgage Agency (Limited), the Preamble.
Colonial Trusts Corporation (Limited), and Charles Fitch Kemp, the liquidator of the said Colonial Trusts Corporation (Limited), have, by their petition represented that the Canada Mortgage Agency (Limited) was duly incorporated on the first day of March, one thousand eight hundred and eighty, under the provisions of the Imperial Joint Stock Companies' Acts, 1862 and 1867, and that some of the objects for which the said Company was established were to take over the mortgage business in the Province of Ontario of the Colonial Trusts Corporation (Limited), and to undertake the collection and guarantee of the moneys secured by certain mortgages belonging to the said corporation and its investors; and also the lending and investment of moneys of the company, or as agents of other persons investing moneys through the agency of the company, on the security of first mortgages of freehold property in Canada; and the said company hath been and is engaged in carrying on such business in the Province of Ontario, and that the mortgages and securities for money invested upon real estate in the Province of Ontario by the Colonial Trusts Corporation (Limited) were taken and held in the name of the Colonial Trusts Corporation (Limited), whether the moneys secured thereby were the property of investors through the said corporation, or the proper moneys of the said corporation itself, and that on the eighteenth day of October, one thousand eight hundred and seventy-eight, the said corporation went into voluntary liquidation under "The Imperial Winding-Up Acts," and Charles Fitch Kemp became the sole liquidator, and in the proceedings in the said liquidation before the Master of the Rolls, in the Chancery Division of the High Court of Justice, in England, it has been ascertained which of the said mortgages belong to the investors and which to the said corporation, and thereupon an agreement was made on the twelfth day of March, one thousand eight hundred and eighty, between the Colonial Trusts Corporation (Limited), of the first part, the said Charles Fitch Kemp, as liquidator, of the second part, the Canada Mortgage Agency (Limited), of the third part, and Charles William Middleton Kemp, as trustee for the several persons (other than the said corporation) entitled to any of the mortgages so effected as aforesaid and held in the name of the said corporation, of the fourth part, by which, upon the terms and conditions in the said agreement mentioned, all of the said mortgages held in the name of the Colonial Trusts Corporation (Limited), and not theretofore assigned, released,

released, or discharged, were in certain events to be transferred to and become vested in the Canada Mortgage Agency (Limited), and the said agreement was on the twenty-third day of March, one thousand eight hundred and eighty, confirmed by the order of the Master of the Rolls, and it is expedient to comply with such petition ;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Appointment
of attorneys or
trustees au-
thorized.

1. The Canada Mortgage Agency (Limited), may by any instrument under its corporate seal from time to time appoint one or more attorney or attorneys, trustee or trustees in this Province, by whom such company may execute such deeds, conveyances, leases, discharges of mortgage, and other instruments of any kind as may be necessary in carrying on the objects of such company within this Province.

Official seal.

2. Such company may commit to the custody of such attorney or attorneys, trustee or trustees for the time being, an official seal for the purpose of executing in this Province, such deeds and instruments as aforesaid, and such seal from time to time, may withdraw, alter, or renew, and such seal shall be deemed and taken to be the corporate seal of such Company for the execution of instruments within this Province, and every deed, conveyance, lease, discharge of mortgage, or other written instrument of any kind purporting to be under the corporate seal of the said company, or under the aforesaid official seal, entrusted to such attorney or attorneys, trustee or trustees shall be receivable in evidence as *prima facie* proof in any court of law or equity in any legal or equitable proceeding of a Civil nature in this Province, and also for the purposes of "the Registry Act," that such deed, conveyance, lease, discharge of mortgage, or other written instrument has been duly executed by such company, without any further proof of the said corporate or official seal, or of either of them, or of the appointment, official character, or signature of the person or persons purporting to have affixed such seal or seals, or to have acted as such attorney or attorneys, trustee or trustees.

Registration of
instruments.

3. Any deed, conveyance, lease, discharge of mortgage, or other instrument purporting to be under the corporate seal of such company or under the official seal of such company now or hereafter to be used by the attorney or attorneys, trustee or trustees of such company in this Province, under the foregoing provisions of this Act, shall be considered as duly executed by such company or their said attorney or attorneys, trustee or trustees as the case may be for registration purposes, upon being produced to the proper registrar in that behalf without any further proof or verification: Provided the same is otherwise in accordance with the Registry Act, and such Registrar

Proviso.

istrar shall register the same without any further proof of such corporate or official seal or other proof whatever.

4. A certified copy of the memorandum and articles of association of the Canada Mortgage Agency (Limited), filed in the office of the Provincial Secretary, under the provisions of chapter one hundred and sixty-three of the Revised Statutes, by the Provincial Secretary, under his hand and purporting to be a true copy of the memorandum and articles of association so filed in his office, shall be *prima facie* evidence of the incorporation of the Canada Mortgage Agency (Limited), and of all the particulars contained in such memorandum and articles of association respectively, in any court of law, or equity, or in any judicial proceeding, or before any court or tribunal in this Province in any civil matter or cause.

Copy of articles of Association certified by Provincial Secretary to be evidence of incorporation.

CHAPTER 51.

An Act respecting the Credit Foncier Franco-Canadien.

[Assented to 4th March, 1881.]

WHEREAS the Credit Foncier Franco-Canadien, incorporated by the statute of the Legislature of the Province of Quebec, passed in the forty-third and forty-fourth year of Her Majesty's reign, and chaptered sixty, has prayed that the power of transacting the business of loaning money on mortgage or otherwise, in the Province of Ontario, be conferred upon it; and it is expedient to grant the prayer of the said petition;

Preamble.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. It shall be lawful for the corporation created and constituted under the name of Credit Foncier Franco-Canadien, by the statute of the Legislature of the Province of Quebec, cited in the preamble hereto, to exercise the powers hereinafter mentioned in the Province of Ontario;

Powers to be exercised by Credit Foncier in Ontario.

(1) To lend money as a first charge on bond and mortgage on real estate situate within the Province of Ontario, repayable either at long date by annuities or at short date, with or without progressive sinking of the debt;

(2) To lend money upon the hypothecation of bonds and mortgages, being a first charge on real estate situate within the Province of Ontario, repayable either at long date by annuities or at short date, with or without progressive sinking of the debt

(3)

(3) To lend on mortgage or otherwise to municipal or school corporations, in the Province of Ontario, such sums of money as they may be authorized to borrow, repayable either at long date by annuities or at short date, with or without progressive sinking of the debt ;

(4) To acquire by assignment, bonds and mortgages being a first charge upon real estate situate in the Province of Ontario ;

(5) To purchase bonds or debentures issued by municipal or school corporations in the Province of Ontario, and by incorporated companies doing business in the Province, and to sell the same if deemed advisable ;

(6) To make loans upon or purchase public securities of this Province, and sell the same if deemed advisable.

Security to be taken.

2. The said corporation shall accept as security only real estate of which the revenues are deemed sufficient ;

(1) The amount of each loan shall not exceed one-half of the estimated value of the real estate mortgaged therefor, and the annuity which the borrower may oblige himself to pay shall not exceed the net revenue which it may be estimated that the property might yield ;

(2) The valuation of property offered as security shall be made on the double basis of the net revenue which it is susceptible of yielding and of the price which it would bring if sold.

Power to form divisions of Province for purposes of business.

3. For the transaction of the business of the said corporation the board of management provided for by the said statute of the Legislature of the Province of Quebec, may, if it deems proper, divide the Province of Ontario into two or more divisions, and may subsequently re-divide such divisions and form others.

Branch offices.

4. A branch office or agency may be established in the city of Toronto, and at such other places in the Province of Ontario as the said board of management may deem advisable.

Corporation may sue and be sued in Ontario.

5. The said corporation may sue and be sued, complain and defend, in any court of law or equity in the Province of Ontario ;

(1) Service of process may be made upon the said corporation at its branch offices or agencies in the Province of Ontario ; and if the corporation have no known branch office or agency in the Province, then, upon return to that effect, the Court may order service by publication, by a notice to be given for one month

month in the *Ontario Gazette*, and such publication shall be held to be due service upon the said corporation.

6. A manager or agent may be appointed to administer the affairs of the said corporation in the Province of Ontario, or in any division thereof which may be established by the said board of management, and when a manager is appointed he shall have the powers conferred and be subject to the obligations imposed upon managers by the statute constituting the said corporation, except as otherwise by this Act provided.

Appointment
and duties of
managers.

7. Such corporation may commit to the custody of such manager or agent for the time being, an official seal for the purpose of executing in this Province, such deeds and instruments as may be necessary in carrying out the objects of the corporation therein; and such seal from time to time, may withdraw, alter or renew, and such seal shall be deemed and taken to be the corporate seal of such corporation for the execution of all instruments within this Province, and every deed, conveyance, lease, assignment of mortgage, discharge of mortgage or other written instrument of any kind purporting to be under the corporate seal of the said corporation, or under the aforesaid official seal entrusted to such manager or agent, shall be receivable in evidence as *prima facie* proof in any court of law or equity in any legal or equitable proceeding of a civil nature in this Province, and also for the purposes of "the Registry Act," that such deed, conveyance, lease, assignment of mortgage, discharge of mortgage, or other written instrument has been duly executed by such corporation, without any further proof of the said corporate or official seal, or of either of them, or of the appointment, official character, or signature of the person or persons purporting to have affixed such seal or seals, or to have acted as such manager or agent.

Official seal.

8. The president of said corporation shall, after the appointment of any such manager, execute in duplicate a procuration countersigned by the secretary of said corporation, authorizing such manager to act within the limits of his powers, for and in the name of the corporation;

President to
execute a pro-
curation to
manager to act
for corpora-
tion.

(1) A duplicate of the procuration shall be deposited in the office of the Provincial Secretary, and the latter shall give notice in the *Ontario Gazette* of such appointment, and of the deposit of the procuration;

(2) All registrars and all courts in the Province of Ontario shall, after such notice, receive all deeds passed by the manager within the limits of his powers, and before the publication in the *Ontario Gazette* of a notice of the revocation of the procuration, as sufficient, without requiring any proof of his power to act.

Power to acquire real estate necessary for offices.

9. The said corporation may acquire and hold such real estate as may be necessary for its offices for the transaction of its business in the Province of Ontario, but the value of the real estate acquired for such purpose, shall not at any time exceed the sum of one hundred thousand dollars; it may, from time to time, lease, mortgage, sell, or otherwise dispose of, such real estate; it may also, for the protection of its investments, purchase and hold real estate mortgaged in its favour, but it shall sell, or otherwise dispose of, such real estate so acquired in payment, or for the protection of its claims, within seven years from the acquisition thereof; meantime it may, from time to time, mortgage or lease the real estate so acquired and held.

CHAPTER 52.

An Act to incorporate the Federal Fire Insurance Company, of Ontario.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS Thomas Stock and Charles Sealey, of the village of Waterdown, John Walter Murton, of the city of Hamilton, Thomas Bain, of the township of West Flamborough, James Delmer Lafferty, of the township of East Flamborough, Franklin M. Carpenter, of the township of Saltfleet, in the county of Wentworth, and William Burrill, of the township of Onondaga, in the county of Brant, Esquires, have, by their petition, prayed that a company may be incorporated under the name of "The Federal Fire Insurance Company of Ontario," for the purpose of carrying on the business of fire insurance, and insuring property against damage or injury by fire, explosion, or other cause of injury or loss, and re-insuring property, real or personal, insured by any other company; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Incorporation and corporate name.

1. The said Thomas Stock, Charles Sealey, John Walter Murton, Thomas Bain, William Burrill, James Delmer Lafferty, and Franklin M. Carpenter, after having complied with the requirements of this Act as to the subscription of stock, and such persons as now are or hereafter shall become shareholders of the said company, shall be and are hereby created, constituted and declared to be a body corporate and politic in law and fact, by the name of "The Federal Fire Insurance Company of Ontario," for the purpose of carrying on the business

of

of fire insurance, and all things appertaining thereto, or connected therewith, in the Province of Ontario. ,

2. The stock of the company shall be five hundred thousand dollars, divided into five thousand shares of one hundred dollars each, which said shares shall be and are hereby vested in the several persons who shall subscribe for the same, their legal representatives and assigns, subject to the provisions of this Act: Provided that the board of directors may, by a vote of the shareholders at a special meeting called for that purpose, increase the amount of the capital stock at any time, or from time to time, to an amount not exceeding in the whole, one million dollars. Capital stock.
Proviso.

3. None of the persons or bodies corporate who may subscribe for stock, shall be liable for any further sum than the unpaid amount upon the stock subscribed for, and the shares shall be deemed personal estate. Liability of shareholders.

4. Until the election of directors hereinafter provided for, the provisional board of directors shall consist of the said Thomas Stock, Charles Sealey, John Walter Murton, Thomas Bain, John Burrill, James Delmer Lafferty, and Franklin M. Carpenter. Provisional directors.

5. The provisional board of directors, or, if any of the said provisional directors shall die or resign, those remaining directors, or a majority of them, shall have power to open stock books at such places as they may direct, and to keep the same open so long as they deem it necessary; and the provisional directors, or their survivors, or a majority of them, are hereby authorized to receive from the shareholders a deposit of fifteen per centum of the amount of stock subscribed by such persons respectively, and are hereby required to pay out of such deposit all costs, charges, and expenses, incurred in the application for and in the obtaining of this Act, and the organizing of the said company, and shall hold office until the first regular meeting and election of directors as hereinafter provided for. Powers of provisional directors.

6. When, and so soon as one hundred thousand dollars of the capital stock of said company shall be subscribed, and twenty thousand dollars thereof paid in, the provisional board of directors shall, by advertisement in one paper published in the city of Hamilton, and in the *Ontario Gazette*, call a general meeting of the shareholders to elect a board of directors to manage the affairs of the said company under this Act. First election of directors.

7. The board of directors shall have power to make, and from time to time, alter such by-laws, rules and regulations, as to them shall appear proper, for the well ordering of the company, to make calls upon the shares of the respective shareholders, at such times as they may deem requisite for the purposes Powers of directors.

Proviso.

purposes and interests of the said company, and to sue for and enforce the payment of the same, and may declare all shares forfeited on which said calls have not been duly paid, within thirty days after the same shall have become due and payable, and may re-issue any such forfeited stock, and may allot the same, or any part thereof, to any person or corporation, or sell the same, or any portion thereof: Provided always, that such successive calls of stock shall be made at intervals of not less than two months between such calls, and no call shall exceed ten per centum, and thirty days' notice shall be given of every such call by a letter mailed and registered, and directed to the proper post office address of the shareholder in respect of whose shares such call is made, and the said call or calls shall become due and payable at the expiration of thirty days from such mailing; the board of directors shall also have power to fill any vacancies in their said board occurring between the usual meetings of shareholders hereinafter provided for, from time to time as they may occur; the board of directors, or a quorum, or a majority of such quorum present at any meeting, shall also at all times have power to appoint officers and agents, and to fix the remuneration and term of office of said officers and agents, and to define the duties and obligations of such officers and agents and securities to be given by them, and to remove or dismiss all officers and agents at pleasure, and generally to transact all necessary matters and things connected with the business of the company; at all meetings of the directors, three members of the board shall be a quorum, and such quorum shall have all the powers and authority of the full board of directors, and all questions at such meetings shall be decided by a majority of the votes of the directors then present thereat; and in case of an equality of votes, the president, vice-president, or presiding director, shall have a casting vote in addition to his vote as director; the directors may also appoint honorary members or local directors in any city or town in which the company transacts business, with such duties, powers and remuneration as they may deem proper, for the transaction of the business of the company in such places, but no person shall be qualified to be elected a director, or continue as such, unless he holds in his own name, stock in said company to the amount of fifteen shares, or as local or honorary director, unless he holds in his own name, stock in said company to the amount of ten shares, whereon all calls shall have been duly paid, and all liability actually matured and incurred by him with the said company also paid.

Real estate.

8. No policy shall be issued by said company until twenty thousand dollars of the capital stock are actually paid in as aforesaid; the company may hold such real estate, not exceeding the annual value of five thousand dollars, as is required for offices, and such other estate as shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction

tion of debts, or judgments recovered: Provided, that all such Proviso.
last mentioned real estate, shall be sold within five years from
the time of its becoming the absolute property of the company.

9. The directors of the company at a meeting held for such Dividends.
specific purpose, may declare such annual or semi-annual divi-
dends upon the capital stock, as they shall deem justified by
its business, but so that no part of the capital thereof be appro-
priated to such dividends.

10. The shares of the company shall be transferable by the Transfer of
parties holding the same, according to the by-laws of the com- shares.
pany, but no share shall be transferable until all calls previ-
ously made thereon are paid, whether the thirty days' notice
thereon had expired or not, and the transmission of interest in
any share in the stock of the company, in consequence of mar-
riage, insolvency or death of the shareholder, or by any other
means than the ordinary transfer, shall be proved and regulated
in such form as the board may from time to time direct, and Proof in
in any action for the recovery of calls or arrears of calls, it actions for
shall be sufficient for the company to allege and prove that calls.
the defendant being an owner of shares therein, according to
the books of the company, is indebted to the company, in res-
pect of so many shares in the sum due, and at the trial it shall
only be necessary to prove that the defendant was owner of
such shares. and that the call was duly made according to the
by-laws or rules of the company.

11. A copy of any by-law, rule, regulation or minute, or of Copies of by-
any entry in any book of the company, certified to be a true laws, etc., as
copy or extract under the hand of the president, vice-president, evidence.
or managing director, or secretary of the company, and sealed
with the corporate seal of the company, shall be received in all
courts and proceedings as *prima facie* evidence of such by-law,
rule, regulation, minute or entry, without further proof thereof,
and without proof of the official character or signature of the
officer signing the same, or of the corporate seal.

12. The company shall not be bound to see to the execu- Company not
tion of any trust, whether expressed, implied or constructive, bound to see to
to which any share or shares of the stock may be subject, or to execution of
which any policy or policies may be subject, and all receipts trusts.
of the person in whose name any share stands, or by whom
any policy or policies appears to be held in the books of the
company, shall be a sufficient discharge to the company for
any money paid in respect of such share or shares, or policy
or policies, notwithstanding any trust to which they or any of
them may be held subject, and whether or not the company
shall have notice of such trust.

13. The head office of the company shall be in the City of Head office.
Hamilton, or elsewhere in the Province of Ontario as may be
determined by the shareholders. 14.

Annual and other meetings and notice thereof.

14. The books of the company shall be annually balanced as on the thirty-first day of December in each year, and within three months from the day aforesaid, a general meeting of the shareholders shall be called by the board of directors, at which a full statement of the company's affairs shall be submitted, and ten days' notice of such meeting, or of any special meeting of shareholders, shall be given by advertisement in one newspaper at the place where the head office is, and also by two insertions in the *Ontario Gazette*.

Election of directors.

15. At such general meeting, shareholders shall have one vote for each share upon which all calls are paid, and votes may be cast in person or by proxy; the shareholders shall at such meeting elect not less than five, nor more than fifteen directors, in such manner as may be provided for by the by-law of the company, and which election of directors shall be by ballot unless the election is unanimous, but all other proceedings shall be determined by open vote; but the company shall not be dissolved by failure to hold the said general meeting or to elect directors thereat; but it shall be lawful on any other day, to hold and make an election at a special general meeting to be called for that purpose by the directors, who shall continue in office until a new election is made; corporations holding stock in the company may be represented by their executive officers, and the shareholders, at a general annual meeting, shall decide the remuneration to be paid to the directors, president, and vice-president.

Special meetings.

16. Special meetings of shareholders may be called by the directors, or on the requisition of shareholders holding one-third of the company's stock; and ten days' notice of all special meetings, stating the object for which they are called, shall be sent to each shareholder by mail, and lists of the shareholders shall at all times be accessible to any of them.

Penalty for paying dividend, if such payment impairs capital.

17. If the directors of the company declare and pay any dividend, when the company is insolvent, or any dividend, the payment of which renders the company insolvent or diminishes the capital stock thereof, the directors declaring such dividend, shall be jointly and severally liable, as well to the company as to the individual shareholders and creditors thereof for the amount of the dividend or dividends so paid; but if any director present when such dividend is declared do forthwith, or if any director then absent do within twenty-four hours after he shall have become aware thereof and able to do so, enter in the minutes of the board of directors his protest against the same and do within eight days thereafter publish such protest in at least one newspaper published at or as near as may be possible to the head office of the company, such director may thereby, and not otherwise, exonerate himself from such liability.

18. The company shall be subject to all general laws which have been or may hereafter be enacted by the Legislature of Ontario, in reference to companies carrying on the business of fire insurance. General laws as to fire insurance to apply.

CHAPTER 53.

An Act respecting the Hawkeye Gold and Silver Mining Company.

[Assented to 4th March, 1881.]

WHEREAS the Hawkeye Gold and Silver Mining Company Preamble.
was incorporated under chapter sixty-three of the Consolidated Statutes of Canada; and whereas, by the Act of the Ontario Legislature, passed in the thirty-eighth year of the reign of Her Majesty Queen Victoria, and chaptered seventy, the said incorporation was confirmed and the said company was brought under the provisions of "The Ontario Joint Stock Companies' Letters Patent Act, 1874," and it was in and by section two of said Act provided, that the existence of the said company should be perpetual and that it should have and possess all the powers, rights, and privileges of a company incorporated under "The Ontario Joint Stock Companies' Letters Patent Act, 1874," and for all purposes should be considered and taken as having become incorporated under the said Act; and whereas, by section fifty-six of the said "The Joint Stock Companies' Letters Patent Act, 1874," it is provided that the charter of the company shall be forfeited by non-user during three consecutive years at any one time, or if the company do not go into actual operation within three years after its charter was granted; and whereas the said company by their petition have represented that for various reasons they have not gone into actual operation up to this time, but that they have agreed to sell their property, real and personal, and that doubts have been expressed as to their corporate existence and power to sell, and have prayed that an Act may be passed removing such doubts and confirming any sale that they have made; and whereas it is expedient to grant the prayer of said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said Hawkeye Gold and Silver Mining Company are now and have always been, since the passing of the said Act, passed in the thirty-eighth year of the reign of Her Majesty Queen Victoria, chaptered seventy, an existing corporation in law and in fact, notwithstanding their not having gone into actual operation before the passing hereof; and in this respect section fifty-six of "The Ontario Joint Stock Companies' Letters Patent

Existence of corporation affirmed.

Patent Act, 1874," shall not be taken or held to apply or to have applied to said company.

Power to sell.

2. The said company shall be held and taken to have had at all times since its incorporation power to sell and dispose of its estate, real and personal; and any sale or agreement for the sale of its said property approved, at any general meeting of the shareholders of said company duly called and held for that purpose, shall be valid and binding on the said company in all courts and places whatsoever.

Execution of conveyances authorized.

3. The directors of the company shall have full power to complete any such sale and to order the execution of all conveyances necessary to give full effect to any such agreement, and any conveyances made in pursuance of such an agreement shall vest the title to the said estate, real and personal, so conveyed in the purchasers, free from all claim of the said company and of the shareholders thereof respectively.

Purchasers not bound to see to application of purchase money.

4. The purchasers shall not be bound to see to the application or distribution of the said purchase money.

CHAPTER 54.

An Act to amend the Act incorporating the Lake Scugog Marsh Lands Drainage Company.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the Lake Scugog Marsh Lands Drainage Company have, by their petition, prayed that the Act incorporating the said company, passed in the forty-second year of Her Majesty's reign, and chaptered forty-nine, may be amended; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Change of construction authorized.

1. The Lake Scugog Marsh Lands Drainage Company shall have power to construct an embankment against the south side of the Port Perry and Scugog Bridge, sufficient to prevent the passing of water, in lieu of the embankment or roadway, required by the nineteenth section of the said Act, to be made from the village of Port Perry to the township of Scugog: Provided always that this section shall not come into effect unless and until the council of the corporation of the township of Scugog and the council of the corporation of the village of Port Perry first assent thereto by by-law, and then only subject to

Proviso.

to such terms and conditions as in any such by-law may be contained.

2. The said company shall have power to construct the roadway or embankment from the township of Cartwright to the township of Scugog required by the said nineteenth section of the said Act as a toll road, with power to levy and collect tolls thereon: Provided always that this section shall not come into effect unless and until the council of the corporation of the township of Scugog and the council of the corporation of the township of Cartwright first assent thereto by by-law, passed in that behalf, and then only subject to such terms and conditions as in any such by-law may be contained.

Authority to collect tolls.

Proviso.

3. The said company may, in addition to the powers granted by said Act, acquire and purchase the lands, or any part thereof, situate in the townships of Reach and Scugog, comprised within the following boundaries, that is to say:— Commencing at the intersection of the boundary line between the fifth and sixth concessions of the said township of Reach with the Nonquon Road; thence southerly along the east side of the Nonquon Road to the boundary line between the second and third concessions of the said township of Reach; thence easterly along the said boundary line between the second and third concessions to the south-east corner of lot number twenty-four, in the third concession of the said township of Reach; thence northerly along the boundary line, between the township of Reach and the township of Cartwright produced to the north-easterly corner of lot number twenty-four, in the fifth concession of the township of Scugog; thence westerly, along the boundary between the fifth and sixth concessions of the said township of Scugog produced to the boundary line between the fifth and sixth concessions of the township of Reach, to the place of beginning.

Power to acquire lands.

4. The time for commencing the works to be carried on under the said Act and this Act is hereby extended for two years, and for completing the said work for five years.

Time extended.

CHAPTER 55.

An Act respecting the Phoenix Mutual Fire Insurance Company of Ontario.

[Assented to 4th March, 1881.]

WHEREAS the Phoenix Mutual Fire Insurance Company of Ontario has, by petition, prayed to be authorized to raise a share capital and to transact a cash premium business as well as

as

as a mutual business; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

- Stock** . 1. The said company may raise a share or stock capital of not less than one hundred thousand dollars, and may increase the same from time to time, to a sum not exceeding five hundred thousand dollars.
- Shares.** 2. The said capital shall consist of shares of one hundred dollars each, and shall be allotted ratably to such persons as may subscribe therefor, in the manner prescribed by the board of directors.
- Liability of shareholders.** 3. Every subscriber shall, upon allotment of one or more shares to him, become a member or corporator of the said company, with all incidental rights, privileges and liabilities; and shall be liable to pay the amount of such shares to the company, in such proportions, and at such times as may, from time to time, be fixed by the board of directors; and at all meetings of the company each shareholder shall be entitled to one vote for each share held by him on which all calls shall have been paid; provided that no shareholder shall be liable for the debts, engagements or liabilities of the company or otherwise howsoever, beyond the amount of his said shares or any balance unpaid thereof.
- Proviso**
- Transfer of shares.** 4. The said shares shall be personal estate and shall be transferable, but no transfer shall be valid unless made on the books of the said company; and until fully paid up, no share shall be transferable without the consent of the board of directors, nor shall any transfer be valid while any call, previously made, remains unpaid; and the company shall have a lien on the shares of any shareholder for unpaid calls or other debts due by him to the company, and for any obligation held by the company against him, and after such call, debt, or obligation becomes due, the company may, upon one month's notice to the shareholder, his executors, or administrators, sell such shares or a sufficient portion thereof to pay such call, debt, or obligation, and transfer the shares so sold to the purchaser.
- Company to have a lien.**
- Forfeiture of shares** 5. The company may also, after default made in the payment of any call upon any share for one month, and after notice having been first given, as in the next preceding section mentioned, declare such share and all sums previously paid thereon forfeited to the company, and the company may sell or reissue forfeited shares on such terms as they shall think fit, for the benefit of the company.

6. After the sum of one hundred thousand dollars of the said stock or share capital has been *bona fide* subscribed, and twenty thousand dollars paid thereon into the funds of the said company, the said company may make insurances for premiums payable wholly in cash; but no insurance on the wholly cash principle shall make the insured a member or incorporator of the company, or make him liable to contribute or pay any sum to the company or to its funds or to any other member thereof, beyond the cash premium agreed upon, or give him any right to any participation in the profits or surplus funds of the company, but the company shall not transact any such business on the wholly cash principle without first procuring a licence from the Provincial Treasurer, and for this purpose the provisions of the Ontario Insurance Act, except section nine, shall apply to the company, except so far as anything contained therein may be inconsistent with this Act.

When company may commence business under this Act.

7. The net annual profits and gains of said company, not including therein any premium notes or undertakings, shall be applied, in the first place, to pay a dividend on the said share capital, not exceeding the rate of ten per centum per annum, and the surplus, if any, shall be applied in the manner provided by the by-laws of the company.

Dividends.

8. After the share capital has been raised, as aforesaid, no person shall be eligible or qualified to be a director of the said company, unless in addition to the qualification required by the fourteenth section of the Act respecting Mutual Fire Insurance Companies, he is also a holder of shares of the said capital stock, to the amount of five thousand dollars, on which all calls have been fully paid and satisfied.

Qualification of directors.

9. The board of directors may make such by-laws as may be necessary to carry the provisions of this Act into effect; and may rescind, alter, vary or add to the same from time to time.

By-laws.

10. The Fire Insurance Policy Act shall apply to the said company.

R. S. O., c. 162, to apply.

CHAPTER 56.

An Act to change the name of the Sarnia Gas Company, to confirm a By-Law of the Town of Sarnia, and to extend the powers of said Company.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS, Charles Mackenzie, Thomas Symington, Michael Fleming, James Flintoft, Edward M. Proctor and James F. Lister, have represented that they are a body corporate and politic, incorporated by the name of the "Sarnia Gas Company," under the authority of the Act intituled "An Act respecting Joint Stock Companies, for supplying cities, towns and villages with gas and water," chapter one hundred and fifty seven of the Revised Statutes of Ontario, and of the Acts amending the same; and, whereas, the corporation of the town of Sarnia, did, on the twentieth day of December, in the year of our Lord one thousand eight hundred and eighty, pass a by-law, intituled "A By-Law for granting authority to certain persons as a Gas Company, to lay down pipes for the conveyance of gas under the streets, squares and other public places of the town of Sarnia," and for other purposes therein mentioned; and whereas, it is amongst other things provided in and by said by-law, that the said company shall have full power, and the exclusive right and authority for thirty years from the final passing of said by-law, to lay down pipes for the purposes aforesaid, subject to the condition that the said company shall supply the said corporation with such quantity of gas as they may require for the lighting of the streets, town hall, and other public buildings of the town of Sarnia, and to the inhabitants thereof at such rate as shall be charged from time to time by the company to the shareholders thereof, being consumers; and, whereas, the persons aforesaid, have by their petition, prayed for a special Act changing the name of the said company, confirming the said by-law, and authorizing the company to extend their pipes beyond the limits of the town of Sarnia, and it is expedient to grant the prayer of the said petition;

Therefore her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Name of company changed.

1. The name of the said company, incorporated as in the preamble to this Act mentioned by the name of "The Sarnia Gas Company," is hereby changed to that of the "Sarnia Consumers' Gas Company," and from and after the passing of this Act, the said company shall be designated and known as the "Sarnia Consumers' Gas Company"; and the said by-law of the corporation of the town of Sarnia, mentioned in the said preamble, is to be read as if the name of the said company mentioned

mentioned therein was the "Sarnia Consumers' Gas Company"; and such name, last mentioned, is to be and is hereby substituted for the words "The Sarnia Gas Company" wherever the name of the said company occurs in the said by-law, and the said by-law shall be and is hereby amended accordingly.

2. The said by-law above cited so amended as aforesaid, shall be and the same is hereby declared to be legal, valid and binding. By-law confirmed.

3. Upon the municipal council of any municipality adjoining the town of Sarnia, by by-law, granting to the company authority to lay down pipes for the conveyance of gas under the streets, squares and other public places of such adjoining municipality, it shall and may be lawful for the company to lay down such pipes under the streets, squares, and other public places of such municipality, and to connect the same with the mains and other gas pipes of the company in the town of Sarnia, and to supply gas to such municipality and the inhabitants thereof, from the works of the company in the town of Sarnia, and the company shall have, exercise and enjoy, in such adjoining municipality, all the rights, powers, privileges and protection provided in the said Act, but subject to the restrictions therein contained, and to any conditions or restrictions contained in any such by-law. Power to supply gas in adjoining municipalities.

4. The said company shall commence the construction of their works within one year, and shall commence to supply gas to the said the corporation of the town of Sarnia within three years after the passage of this Act. Limitation of time.

5. Nothing in this Act contained shall affect the rights of the Honourable Alexander Vidal, and certain other persons, incorporated in the year one thousand eight hundred and seventy-eight, as a gas company, by the name of "The Sarnia Gas Company," and said last mentioned company shall retain its name and rights, notwithstanding the passage of this Act. Rights of others not affected.

CHAPTER 57.

An Act to amend the Acts incorporating the Toronto Gravel Road and Concrete Company.

[Assented to 4th March, 1881.]

WHEREAS by the Act passed in the thirty-sixth year of the reign of Her Majesty Queen Victoria, chaptered one hundred and fourteen, "The Toronto Gravel Road and Concrete Company" was incorporated and was empowered to make, build or construct gravel roads or concrete roads, or roads composed of any combination of gravel or other substances or materials Preamble.

whatsoever, and by the Act passed in the thirty-seventh year of the reign of Her Majesty Queen Victoria, chaptered ninety, the said company was empowered to lay out and construct a double or single tramway from the gravel beds or pits in the township of Scarborough, through the township of York, to some point within the city of Toronto, and to take and hold all lands necessary for the purposes of their road or way, and to carry and transport on and over their said roadway in cars, carriages or other vehicles, gravel, sand and other property, and passengers, and were empowered to construct a wire tramway and to operate and work the same by a stationary steam engine or engines, and it was by the said Act provided that the said road might be worked by horse or other power, but if by steam, the rate of travelling should not be greater than ten miles per hour; and whereas it was thereby also enacted that the councils of the municipalities through or in which the said tramway or roads might be laid out or constructed, might permit the said company to construct the same or some part thereof along and upon the highways and streets, upon such terms as might be agreed upon between them; and whereas the said company, prior to the construction of the said tramway, being about to construct the same under the authority of the said Act, applied to the corporation of the county of York for permission to construct a part of the same along and upon a portion of the Kingston road, a public highway vested in the said the corporation of the county of York, and the council of the said corporation gave such permission, but when such permission was given it was not contemplated by the said council of the said corporation that the said company proposed to use a steam motor, or other steam engines in working their said tramway; and whereas the said tramway has been constructed by the said company, and a portion of the same has been constructed along and upon the said Kingston road, and the same has been worked by horse power; and whereas the said company have recently commenced to use a steam motor in working their said tramway, and such use of such engines along and upon the said Kingston road is dangerous to the public and others using and travelling upon the said Kingston road; and whereas the corporation of the county of York has presented a petition praying that the said company may be prevented from using steam power on their said tramway along and upon the said Kingston Road, so far as such prohibition may be needful for the reasonable protection of the public using the said Kingston Road; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Company not
to use steam
engines on
Kingston
Road.

1. The said company shall hereafter have no power to use locomotives propelled by steam, or steam motors, or other steam engines, upon or along the travelled road in the county of York known

known as the Kingston Road, in working so much of the tramway of the said company as is now constructed upon or along the said Kingston Road, unless and until the council of the said county of York, by by-law or resolution, permit the said company to do otherwise.

2. Nothing in this Act contained shall prejudice or affect the rights or contention of either the said the corporation of the county of York or the said company in a certain cause now pending in the court of chancery for Ontario, wherein the said the corporation of the county of York are plaintiffs, and the said company defendants, and the matters in question in the said cause shall be disposed of and determined as if this Act had not been passed. Pending cause not affected.

3. In case it shall be determined in the said cause that the said the corporation of the county of York are not entitled to an injunction or decree which would have the effect of preventing the said company from using steam motors or engines upon the said tramway, the court or judge before whom the said cause shall be heard, shall at the hearing of the said cause, ascertain and determine whether under all the circumstances as they may be established at the said hearing, the said company is entitled to receive or to be awarded any compensation from the said the corporation of the county of York for not being permitted to use locomotives or steam motors or other steam engines upon the said tramway under the provisions of the first section of this Act, and to fix the amount of such compensation, if any, and such evidence as may be necessary for the determination of the said question may be offered and given by and on behalf of the said parties to the said cause without any amendment of the pleadings, and in considering the said circumstances the said tramway is to be regarded as a tramway for the conveyance of passengers and parcels only, and no claim is to be made by the said company in respect of their gravel pits or lands, or for any difference in the value to them of the said gravel pits or lands heretofore used or worked in connection with the said tramway; and the court or judge shall allow credit to the said the corporation of the county of York for such sums as the said company should have paid for tolls under the agreement between the said parties in case the said tramway had been worked by horse power, and such damages, if any, as the said the corporation of the county of York may have heretofore sustained or may sustain in the future through the construction of the said tramway, if worked by steam, upon the said road, including the injury to the said road, the loss or diminution of tolls payable by the travelling public, and the diverting of travel and traffic therefrom, as well as the increased exposure and liability to actions against the said the corporation of the county of York by persons travelling upon or using the said road. Provision for compensation to company should the court deem them entitled thereto.

4.

If compensation awarded, corporation of York to elect whether to pay same or permit use of steam engines.

4. In case it shall be determined that the said company is entitled to be paid compensation, as aforesaid, the said, the corporation of the county of York, shall, within fourteen days after service of the decree declaring the ascertainment of the amount thereof, elect either to pay the same or not to pay the same, and, in the latter event, to permit the said company to use steam motors upon the said tramway; and in case the said, the corporation or the county of York, shall elect to pay the amount of such compensation, as aforesaid, the same shall be payable forthwith, and the said company shall be entitled to an order from the said court, in the said cause, for the payment of the same.

If corporation elect not to pay compensation, company empowered to use engines.

5. In case the said, the corporation of the county of York, shall elect not to pay the said compensation when so ascertained, but to permit the said company to use steam motors upon the said road, the said company shall thereafter be entitled to use steam motors upon the said tramway, and the corporation of the county of York shall pay such costs of and incidental to the said suit and enquiry as the court may order or decree to be paid to the said company, and the damages (if any) sustained by the removal, in the interval, of the steam motor now in use on the said tramway, unless the corporation of the county of York shall consent to the same being used during such interval; and in case the said, the corporation of the county of York, shall elect not to pay the said compensation, but to permit the said company to use steam motors upon the said road, the said company shall, so long as the said road is a toll road, pay to the said, the corporation of the county of York, half yearly, on the first day of January and July in each year, such sum as would have been payable by the said company to the said, the corporation of the county of York, within the half year then preceding, in case the cars of the said company were drawn by horses.

Corporation not liable for damages occasioned in whole or in part by tramway.

6. The said, the corporation of the county of York, shall not be liable for any damages occasioned to or sustained by any person or persons on the said tramway, or on account of the contraction of the space reserved or available for ordinary travel and traffic along the said road, or on account of the ditches along the same, or on account of the said tramway being constructed or worked upon or along the said road, or for any accident or injuries to any person or persons travelling upon the said road, in whole or in part caused by the said tramway, or by any steam motor or engine, car, or other vehicle of the said company.

CHAPTER 58.

An Act to amend the Charter of Incorporation of the
Victoria Rolling Stock Company of Ontario.

[Assented to 4th March, 1881.]

WHEREAS under the provisions of the Ontario Joint Stock Companies' Letters Patent Act a charter was granted by the Lieutenant-Governor in Council, whereby the Victoria Rolling Stock Company of Ontario became incorporated; and whereas the said company, from the nature of its business, will require to borrow money from time to time from banks and other sources on the security of mortgage or pledge of, or other lien upon, specified property and assets of the company, and under the provisions of the laws relating to banking, in force in Canada, banks are not permitted to advance money upon mortgage security, and it is expedient to enable said company to issue debentures;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. It shall be lawful for the board of directors of the company from time to time, and the board is hereby empowered, under the authority of a by-law of the board from time to time passed, to issue from time to time, as occasion may require for the purposes of the company, debentures to be called preferential debentures, executed by the president for the time being of the company, and countersigned by the secretary of the company, payable to bearer at such times and places, and bearing such rate of interest, and payable in such manner, and either at one time or at different dates, as may be stated in the by-law authorizing such issue, and which debentures and interest shall, without registration or other formal conveyance, be taken and considered to be first and preferential claims and charges upon such personal property, rights and credits of the company, as shall be specified in the by-law authorizing such issue, and each by-law authorizing such issue shall state the total amount of preferential debentures to be issued under such by-law; and each holder of said preferential debentures shall be deemed to be a mortgagee and incumbrancer *pro rata* with all the other holders of preferential debentures issued under and by virtue of the same by-law upon all the property, real and personal, rights and credits specified in the by-law authorizing such issue: Provided always that it shall not be lawful for the company to pass a second or other by-law for authorizing the issue of debentures to be charged on such of its property, rights or credits as are already charged with debentures issued under a previous by-law, until it shall have paid

Preamble.

Issue of preferential debentures authorized.

Proviso.

paid and satisfied all outstanding debentures charged on such property, rights or credits by said previous by-law.

Transfers of debentures.

2. The said preferential debentures shall be assignable by delivery, may be sold, pledged or hypothecated, and may be in the form set forth in the schedule to this Act, or to the like effect.

Each by-law authorizing the issue of debentures to be filed in office of county court clerk.

3. Before issuing the debentures by any such by-law authorized to be issued, a copy of such by-law certified under the seal of the company, shall be filed in the office of the clerk of the county court of the county of York, who shall be entitled to receive for such filing the sum of twenty-five cents.

Yearly statement to be filed with clerk of county court of York.

4. In the month of January in each year the company shall file with the clerk of the county court of the county of York a statement, under oath, of the president or manager of the company, shewing the total amount then owing on the debentures issued under any by-law authorizing such issue.

SCHEDULE.

Debenture No.

TRANSFERABLE.

The VICTORIA ROLLING STOCK COMPANY OF ONTARIO promise to pay to the bearer hereof the sum of _____ on the _____ day of _____ at _____ in the city of _____ (or as the case may be) with interest at the rate of _____ per cent. per annum, to be paid (yearly, half-yearly, or otherwise, as the case may be) on presentation of the proper coupon for the same, as hereunto annexed, say on the _____ day of the month (or months of, as the case may be), in each year, at _____

N.B.—This debenture is one of a total issue amounting to _____ dollars, issued under the authority of a by-law of the company passed on the _____ day of _____ and filed in the office of the clerk of the County Court of the County of York.

Dated at _____ this _____ day of _____ 18 .

President.

Secretary.

No.

COUPON.

(Half) yearly dividend due the _____ day of _____ 18 , on Debenture number _____ issued by The Victoria Rolling Stock Company of Ontario on the _____ day of _____ 18 , for _____ dollars at _____ per cent. per annum, payable at _____

Secretary.

CHAPTER

CHAPTER 59.

An Act respecting the Waterloo County Mutual Fire Insurance Company, of Ontario.

[Assented to 4th March, 1881.]

WHEREAS the Waterloo County Mutual Fire Insurance Preamble.
Company, of Ontario, has, by petition, prayed to be authorized to raise a share capital and to transact a cash premium business as well as a mutual business, and to change the name of the company; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The name of the said company shall hereafter be the Name changed.
Waterloo Mutual Fire Insurance Company.

2. The said company may raise a share or stock capital of Power to raise share capital.
not less than one hundred thousand dollars, and may increase the same from time to time to a sum not exceeding five hundred thousand dollars.

3. The said capital shall consist of shares of one hundred Amount and allotment of shares.
dollars each, and shall be allotted ratably to such persons as may subscribe therefor, in the manner prescribed by the board of directors.

4. Every subscriber shall, upon allotment of one or more Liabilities and rights of shareholders.
shares to him, become a member or corporator of the said company, with all incidental rights, privileges and liabilities, and shall be liable to pay the amount of such shares to the company in such proportions and at such times as may from time to time be fixed by the board of directors; and at all meetings of the company each shareholder shall be entitled to one vote for each share held by him, on which all calls shall have been paid: Provided that no shareholder shall be liable for the debts, en- Proviso.
gagements or liabilities of the company, or otherwise howsoever, beyond the amount of his said shares or any balance unpaid thereof.

5. The said shares shall be personal estate and shall be Transfer of shares.
transferable, but no transfer shall be valid unless made on the books of the said company; and until fully paid up, no share shall be transferable without the consent of the board of directors, nor shall any transfer be valid while any call previously made remains unpaid; and the company shall have a lien on the shares of any shareholder for unpaid calls, or other debts due by him to the company, and for any obligation held by the company

company against him ; and after such call, debt or obligation becomes due the company may, upon one month's notice to the shareholder, his executors or administrators, sell such shares or a sufficient portion thereof to pay such call, debt or obligation, and transfer the shares so sold to the purchaser.

Forfeiture of shares.

6. The company may also, after default made in the payment of any call upon any share for one month, and after notice having been first given, as in the next preceding section mentioned, declare such share and all sums previously paid thereon forfeited to the company, and the company may sell or re-issue forfeited shares on such terms as they shall think fit, for the benefit of the company.

When company may do cash premium business.

7. After the sum of one hundred thousand dollars of the said stock or share capital has been *bona fide* subscribed, and twenty per centum paid thereon into the funds of the said company, the said company may make insurances for premiums payable wholly in cash ; but no insurance on the wholly cash principle shall make the insured a member or corporator of the company, or make him liable to contribute or pay any sum to the company or to its funds, or to any other member thereof, beyond the cash premium agreed upon, or give him any right to any participation in the profits or surplus funds of the company ; but the company shall not transact any such business on the wholly cash principle without first procuring a license from the Provincial Treasurer, and for this purpose the provisions of the Ontario Insurance Act, except section nine, shall apply to the company, except so far as anything contained therein may be inconsistent with this Act.

Application of profits.

8. The net annual profits and gains of said company, not including therein any premium notes or undertakings, shall be applied in the first place, to pay a dividend on the said share capital not exceeding the rate of ten per centum per annum, and the surplus, if any, shall be applied in the manner provided by the by-laws of the company.

Qualification of directors.

9. After the share capital has been raised as aforesaid, no person shall be eligible or qualified to be a director of the said company, unless in addition to the qualification required by the fourteenth section of the Act respecting Mutual Fire Insurance Companies, he is also a holder of shares of the said capital stock to the amount of three thousand dollars, on which all calls have been fully paid and satisfied.

By-laws.

10. The board of directors may make such by-laws as may be necessary to carry the provisions of this Act into effect, and may rescind, alter, vary, or add to the same from time to time.

R. S. O., c. 162, to apply.

11. The Fire Insurance Policy Act shall apply to the said company.

CHAPTER

CHAPTER 60.

An Act to incorporate the Chatham and Charing Cross Railway Company.

[Assented to 4th March, 1881.]

WHEREAS the construction of a railway from the town of Chatham, in the county of Kent, to or near the village of Charing Cross, in said county, has become desirable for the public convenience, and William McKeough, William J. Howard, William Northwood, Henry Smyth, Stephen White, Israel Evans, Jonas B. Jackson, S. M. Knapp, James N. Henry, David Wilson, the Hon. Joseph Northwood, William Ball, James Lamont, Frederic Max, John McKeough, Kenneth Urquhart, J. R. Gemmill, Charles Northwood, John B. Stringer, James Richardson, T. K. Holmes, John Piggott, Archibald Lamont, and others, have petitioned that an Act may be passed authorizing the construction thereof; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said William McKeough, William J. Howard, William Northwood, Henry Smyth and Stephen White, and such other persons as shall, in pursuance of this Act, become shareholders, are hereby constituted a body corporate and politic, by the name of the "Chatham and Charing Cross Railway Company." Incorporation.
2. The said company shall have full power and authority under this Act to construct a railway from any point on the river Thames, within the limits of the town of Chatham, in the county of Kent, to some point on the Canada Southern Railway at or near the Charing Cross station of said railway, in the township of Raleigh, in said county of Kent. Location of line.
3. The said company shall, also, have power to construct and use on the shore of the river Thames, near the said railway, such wharves, warehouses, elevators, or other works, as may be required for the uses of the said company. Power to build elevators.
4. The gauge of the said railway shall be four feet, eight and a half inches. Gauge.
5. Conveyances of land to the said company, for the purposes and powers of this Act, made in the form or to the effect set out in schedule "A" hereto annexed, shall be sufficient conveyance to the said company, their successors and assigns, of the estate Form of conveyance.

estate or interest and bar of dower of the persons executing the same respectively, and such conveyances shall be registered in such manner and upon such proof of execution as is required by the registry laws of Ontario, and no registrar shall be entitled to demand more than seventy-five cents for registering the same, including all entries and certificates thereof and certificates indorsed on the duplicates thereof.

Provisional
directors and
their powers.

6. The persons named in the first section of this Act shall be, and are hereby, constituted provisional directors of the said company, and shall hold office as such until the first election of directors under this Act, and shall have power forthwith to open stock-books and procure subscriptions of stock for the undertaking, to make calls upon subscribers, to cause surveys and plans to be executed, and to call a general meeting of the shareholders for the election of directors, as hereinafter provided, and with all such powers as, under the Railway Act and any other law in force in Ontario, are vested in such boards.

Power to take
land.

7. It shall and may be lawful for the said company to pass over any portions of the county between the points in the second section mentioned, and to take and appropriate for the use of said railway, and the works connected therewith, so much of the land as may be necessary for the works of the said railway.

Capital.

8. The capital of the company hereby incorporated shall be one hundred thousand dollars (with power to increase the same in the manner provided by the said Railway Act), to be divided into one thousand shares of one hundred dollars each, and shall be raised by the persons and corporations who may become shareholders in such company, and the money so raised shall be applied, in the first place, for the payment of all expenses for procuring the passing of this Act, and for making the surveys, plans and estimates connected with the works hereby authorized, and the remainder of such money shall be applied to the making, equipment, completion and working of the said railway, and the purposes of this Act.

First election
of directors.

9. When and as soon as shares to the amount of twenty-five thousand dollars in the capital stock of the company shall have been subscribed, and ten per centum thereof shall have been paid into one of the chartered banks of the Dominion, having an office in the town of Chatham, the provisional directors, or a majority of those present at a meeting duly called for the purpose, shall call a meeting of the subscribers for the purpose of electing directors, giving at least four weeks' notice in the *Ontario Gazette* and in one newspaper published in the town of Chatham, of the time, place and object of such meeting, and at such general meeting the shareholders present, either in person or by proxy, and who shall, before or at the opening of such meeting, have paid ten per centum on the stock sub-

scribed

scribed by them, shall elect five persons to be directors of the said Company, in manner and qualified as hereinafter mentioned, who, together with the *ex-officio* directors under this Act, shall constitute a board of directors, and shall hold office for one year, or until their successors are elected.

10. The mayor of the town of Chatham, and the reeve of the township of Raleigh, shall be *ex-officio* directors of the company. *Ex-officio* directors.

11. The sums so paid into the said bank in the town of Chatham, as provided by section nine, shall not be withdrawn from the bank except for the purposes of this Act. Application of moneys deposited in bank.

12. The directors for the time being, may, from time to time, make calls as they think fit: Provided that no calls shall be made at any one time of more than ten per centum of the amount subscribed by each shareholder, and thirty days' notice shall be given of each call, as provided in section nine. Calls.

13. Thereafter the general meetings, and the special general meetings of the shareholders of the company, shall be held in such place, on such days, and at such hours as may be directed by the by-laws of the said company, and public notice thereof shall be given as provided in section nine. General meetings.

14. In the election of directors under this Act, no person shall be elected a director unless he shall be the holder and owner of at least ten shares of the stock of the said company, upon which all calls have been paid; and at such election each shareholder shall be entitled to one vote for each share held by him of such stock. Qualification of directors.

15. At all meetings of the board of directors three shall form a quorum for the transaction of business, and the said board may employ one of their number as paid director. Quorum.

16. Any municipality, or any portion of a township municipality, which may be interested in securing the construction of the said railway, or through any part of which, or near which, the railway or works of the said company shall pass or be situate, may aid the said company by giving money or debentures, by way of bonus, gift or loan, or by the guarantee of the municipal corporation, under and subject to the provisions hereinafter contained: Provided always that no such aid shall be given except after the passing of a by-law for the purpose and the adoption of such by-law by the qualified ratepayers of the municipality, or portion of municipality (as the case may be), in accordance with and as provided by law in respect to granting aid by way of bonuses to railways. Aid from municipalities. Proviso.

17. Such by-laws shall be submitted by the municipal council to the vote of the ratepayers in manner following, namely:— Provisions as to bonus by-laws.

(1)

1) The proper petition shall first be presented to the council, expressing the desire to aid the railway, and stating in what way and for what amount; and the council shall, within six weeks after the receipt of such petition by the clerk of the municipality, introduce a by-law to the effect petitioned for, and submit the same for the approval of the qualified voters;

(2) In the case of a county municipality, the petition shall be that of a majority of the reeves and deputy-reeves, or of fifty resident freeholders in each of the minor municipalities of the county who are qualified voters under the Municipal Act;

(3) In the case of other municipalities, the petition shall be that of a majority of the council thereof, or of fifty resident freeholders, being duly qualified voters as aforesaid;

(4) In the case of the section of a township municipality, the petition is to be presented to the council, defining the section by metes and bounds, or lots and concessions, and shall be that of a majority of the council of such township municipality, or of fifty resident freeholders in such section of the municipality, being duly qualified voters as aforesaid.

Provisions for referring to arbitration disputes as to bonus by-laws.

18. In case of aid from a county municipality, fifty resident freeholders of the county may petition the county council against submitting the said by-law upon the ground that certain minor municipalities or portions thereof comprised in the said by-law would be injuriously affected thereby, or upon any other ground ought not to be included therein, and upon deposit by the petitioners with the treasurer of the county of a sum sufficient to defray the expense of such reference, the said council shall forthwith refer the said petition to three arbitrators, one being the judge of the county court, one being the registrar of the county or of the riding in which the county town is situate, and one being an engineer appointed by the Commissioner of the Department of Public Works for Ontario, who shall have power to confirm or amend the said by-law, by excluding any minor municipality or any section thereof therefrom; and the decision of any two of them shall be final; and the by-law so confirmed or amended shall thereupon, at the option of the railway company, be submitted by the council to the duly qualified voters, and in case the by-law is confirmed by the arbitrators, the expense of the reference shall be borne by the petitioners against the same, but if amended, then by the railway company or the county, as the arbitrators may order.

"Minor municipality," meaning of.

19. The term "minor municipality" shall be construed to mean any town not separated from the municipal county, township or incorporated village situate in the county municipality.

Deposit for expenses.

20. Before any such by-law is submitted, the railway company shall, if required, deposit with the treasurer of the municipality

cipality a sum sufficient to pay the expenses to be incurred in submitting said by-law.

21. All municipalities or portions thereof interested in the construction of the road of the said company, may grant aid by way of bonus to the said company, towards the construction of such road, notwithstanding that such aid may increase the municipal taxation of such municipalities or portions thereof, beyond what is allowed by law: Provided that such aid shall not require the levying of a greater aggregate annual rate for all purposes, exclusive of school rates, than three cents in the dollar upon the value of the ratable property therein.

Rate not exceeding three cents in the dollar valid.

Proviso.

22. Such by-law shall in each instance provide:—

By-law, what to contain.

(1) For raising the amount petitioned for in the municipality or portion of the township municipality (as the case may be), mentioned in the petition, by the issue of debentures of the county or minor municipality respectively, and shall also provide for the delivery of the said debentures or the application of the amount to be raised thereby, as may be expressed in the said by-law;

(2) For assessing and levying upon all ratable property lying within the municipality or portion of the township municipality defined in said by-law (as the case may be), an annual special rate sufficient to include a sinking fund for the repayment, of the said debentures within twenty years, with interest thereon, payable yearly or half-yearly, which debentures the respective municipal councils, warden, mayors, reeves and other officers thereof, are hereby authorized to execute and issue in such cases respectively.

23. In case such by-law be approved and carried in accordance with the provisions of the law in that behalf, then within four weeks after the date of such voting, the municipal council which submitted the same shall read the said by-law a third time and pass the same.

If by-law carried, council to pass same;

24. Within one month after the passing of such by-law, the said council and the warden, reeve, or other officers thereof shall issue or dispose of the debentures necessary to raise the sum mentioned in such by-law and otherwise act according to the terms thereof.

And issue debentures.

25. In case any debentures be so granted by a portion of a township municipality, the rate to be levied for the payment of the said debentures, and the interest thereon, shall be assessed and levied upon such portion only of the municipality, but the debentures to be issued in the case of aid by a portion of a township municipality shall be the debentures of the municipality.

Rate for bonus granted by portion of a municipality to be levied on such portion.

26.

Municipal
Act to apply.

26. The provisions of the Municipal Act, so far as the same are not inconsistent with this Act, shall apply to any by-law so passed by or for a portion of a municipality to the same extent as if the same had been passed by or for the whole municipality.

Municipalities
may authorize
construction of
railway on
highways.

27. It shall be lawful for any municipality through which the said railway passes, or in which it is situate, by by-law for that purpose, to empower the said company to make their road and lay their rails along any of the highways within such municipality.

Exemption
from or agree-
ment as to
taxes.

28. It shall further be lawful for the council of any municipality, in which any part of the railway of the company is situate, by by-law specially passed for that purpose, to exempt the said company and its property within such municipality, either in whole or in part, from municipal assessment or taxation, or to agree to a certain sum per annum or otherwise in gross or by way of commutation or composition for payment, or in lieu of all or any municipal rates or assessments to be imposed by such municipal corporation, and for such term of years as such municipal corporation may deem expedient, not exceeding twenty-one years; and any such by-law shall not be repealed unless in conformity with a condition contained therein.

Trustees of
debentures.

29. Whenever any municipality, or portion of a township municipality shall grant aid, by way of bonus or gift, to the railway company, the debentures therefor shall within six months after passing of the by-law authorizing the same, be delivered to three trustees, to be named, one by the Lieutenant-Governor in Council, one by the said company, and one by the majority of the heads of the municipalities which have granted bonuses, all of the trustees to be residents of the Province of Ontario: Provided that if the said heads of the municipalities shall refuse or neglect to name such trustee within one month after notice in writing of the appointment of the company's trustee, or if the Lieutenant-Governor in Council shall omit to name such trustee within one month after notice in writing to him of the appointment of the other trustees, then, in either case, the company shall be at liberty to name such other trustee or other trustees; any of the said trustees may be removed and a new trustee appointed in his place at any time by the Lieutenant-Governor in Council; and in case any trustee dies or resigns his trust, or goes to live out of Ontario or otherwise becomes incapable to act, his trusteeship shall become vacant, and a new trustee may be appointed by the Lieutenant-Governor in Council.

Proviso.

Trusts of
debentures.

30. The said trustees shall receive the said debentures or bonds in trust: Firstly, under the directions of the company, but subject to the conditions of the by-law in relation thereto,

as

as to time or manner, to convert the same into money or otherwise dispose of them: Secondly, to deposit the debentures or amount realized from the sale in some chartered bank having an office in the Province of Ontario, in the name of the "Chatham and Charing Cross Railway Municipal Trust Account," and to pay the same out to the said company from time to time as the said company become entitled thereto under the conditions of the by-law granting the said bonus, and on the certificate of the chief engineer of the said railway for the time being, in the form set out in the schedule "B" hereto, or to the like effect, which certificate shall set forth, that the conditions of the by-law have been complied with, and is to be attached to the cheque or order drawn by the said trustees for such payments, or delivery of debentures; and such engineer shall not wrongfully grant any such certificate, under a penalty of five hundred dollars, recoverable in any court of competent jurisdiction by any person who may sue therefor.

31. The trustees shall be entitled to their reasonable fees and charges from said trust fund; and the act of any two of such trustees shall be as valid and binding as if the three had agreed.

Fees to trustees.
Act of two trustees binding.

32. The directors of the said company, after the sanction of the shareholders shall have first been obtained, at any special general meeting, to be called from time to time, for such purpose, shall have power to issue bonds, made and signed by the president and vice-president of the said company, and countersigned by the secretary, and under the seal of the said company, for the purpose of raising money for prosecuting said undertaking, and such bonds shall, without registration or formal conveyance, be taken and considered to be the first and preferential claims and charges upon the undertaking and the real property of the company, including its rolling stock and equipments then existing and at any time thereafter acquired, and each holder of the said bonds shall be deemed to be a mortgagee and incumbrancer *pro rata* with all the other holders thereof upon the undertaking and real property of the company as aforesaid: Provided however that the whole amount of such issue of bonds shall not exceed ten thousand dollars per mile of the said railway: Provided further that in the event at any time of the interest upon the said bonds remaining unpaid and owing, then, at the next general annual meeting of the said company, all holders of bonds shall have and possess the same privileges and qualifications for directors and for voting as are attached to shareholders: Provided further, that the bonds and any transfers thereof shall have been first registered in the same manner as is provided for the registration of shares, and it shall be the duty of the secretary of the company to register the same on being required to do so by the holder thereof.

Power to issue preferential bonds.

Proviso.

Proviso.

Proviso.

33. All such bonds, debentures and other securities and coupons and interest warrants thereon respectively, may be made payable

Bonds may be payable to bearer.

payable to bearer and transferable by delivery, and any holder of any such securities so made payable to bearer may sue at law thereon in his own name.

Promissory
notes, etc.

34. The said company shall have power and authority to become parties to promissory notes and bills of exchange for sums not less than one hundred dollars, and any such promissory note or bill of exchange made or indorsed by the president of the company and countersigned by the secretary of the said company, and under the authority of a quorum of the directors, shall be binding on the said company, and every such promissory note or bill of exchange so made, shall be presumed to have been made with proper authority, until the contrary be shewn, and in no case shall it be necessary to have the seal of the said company affixed to such promissory note or bill of exchange, nor shall the president or secretary be individually responsible for the same, unless the said promissory notes or bills of exchange have been issued without the sanction and authority of the directors as herein provided and enacted: **Provido.** Provided, however, that nothing in this section shall be construed to authorize the said company to issue any note or bill of exchange, payable to bearer or intended to be circulated as money or as the notes or bills of a bank.

Powers as to
lands.

35. Whenever it shall be necessary, for the purpose of procuring sufficient lands for stations, or gravel-pits for constructing, maintaining and using the said railway, and in case, by purchasing the whole of any lot or parcel of land over which the railway is to run, or upon which the stations are to be built, or from which gravel is to be taken by said company for the purposes of said railway, or for other purposes, the company can obtain the same at a more reasonable price or to greater advantage than by purchasing portions thereof only, the company may purchase, hold, use and enjoy such lands, and also the right of way thereto, if the same be separated from their railway, and may sell and convey the same, or any part thereof, from time to time, as they may deem expedient; but the compulsory clauses of the Railway Act shall not apply to this section.

Power to ac-
quire quarries
and gravel
pits, etc.

36. When stone, gravel, earth or sand, is or are required for the construction or maintenance of said railway, or any part thereof, the company may, in case they cannot agree with the owner of the lands on which the same is situate for the purchase thereof, cause a provincial surveyor to make a map and description of the property so required, and they shall serve a copy thereof, with their notice of arbitration, as in case of acquiring the roadway, and the notice of arbitration, the award and the tender of the compensation, shall have the same effect as in case of arbitration for the roadway; and all the provisions of the Railway Act of Ontario and of this Act, as to the service of the said notice, arbitration, compensation,

sation, deeds, payment of money into court, the right to sell, the right to convey, and the parties from whom lands may be taken, or who may sell, shall apply to the subject matter of this section, and to the obtaining of materials as aforesaid; and such proceedings may be had by the said company, either for the right to the fee simple in the land from which said materials shall be taken, or for the right to take material for any time they shall think necessary; the notice of arbitration, in case arbitration is resorted to, to state the interest required.

37. When said gravel, stone, earth or sand shall be taken under the preceding section of this Act, at a distance from the line of the railway, the company may lay down the necessary siding and tracks over any lands which may intervene between the railway and the lands on which said material shall be found, whatever the distance may be; and all the provisions of the Railway Act of Ontario and of this Act, except such as relate to filing plans and publication of notice, shall apply and may be used and exercised to obtain the right of way from the railway to the land on which such materials are situated; and such right may be so acquired for a term of years, or permanently, as the company may think proper; and the powers in this and the preceding section may at all times be exercised and used in all respects after the railway is constructed, for the purpose of repairing and maintaining the said railway;

*Sidings to
quarries and
gravel pits.*

(2) When estimating the damages for the taking of gravel, stone, earth or sand, sub-section eight of section twenty of the Railway Act of Ontario shall not apply.

38. The railway shall be commenced within two years, and completed within three years after the passing of this Act.

*Time of com-
mencement
and com-
pletion.*

39. The said company hereby incorporated may, from time to time, for advances of money to be made thereon, mortgage or pledge any bonds which they can, under the powers of this Act, issue for construction of the said railway or otherwise.

*Power to
pledge bonds.*

40. The company incorporated by this Act may enter into any arrangement with any other railway company or companies lawfully authorized in that behalf for the absolute sale to said company of their said railway, or for the building, leasing or working of the said railway, on such terms and conditions as the directors of the several companies may agree upon, or for leasing or hiring from such other company or companies any portion of their railway, or the use thereof, for leasing or hiring any locomotives or other rolling stock or moveable property from such companies or persons, and generally to make an agreement or agreements with any other company so lawfully authorized touching the use by one or the other, or by both companies, of the railway, or rolling stock of either or both, or any part thereof, or touching any service to be rendered by the one company to the other, and the compensation therefor,

*Arrangements
with other
companies.*

Proviso. and any such agreement shall be valid and binding according to the contract terms thereof: Provided that the assent of at least two-thirds of the shareholders of this company shall be first obtained, at a special general meeting to be called for the purpose, according to the by-laws of the company and the provisions of this Act; and the company or companies leasing or entering into such agreement for using the said railway may and are hereby authorized to work the said railway, and in the same manner as if incorporated with their own line; but this section shall not be construed as purporting or intending to confer rights or powers upon any company which is not within the legislative authority of this Province.

If railway not completed in time limited, land taken to revert to original owners.

41. Should the said railway not be sufficiently completed for the transportation of passengers and freight, from the town of Chatham to the line of the Canada Southern Railway Company, within the time specified in the thirty-eighth section of this Act, then, and in such case, the lands acquired by this company for the purposes of their railway, shall revert to the original owners thereof.

Snow fences.

42. The said company shall have the right on and after the first day of November in each year, to enter into and upon any lands of Her Majesty, or into or upon any lands of any corporation or person whatsoever, lying along the route or line of said railway, and to erect and maintain snow fences thereon, subject to the payment of such damages (if any) as may be hereafter established in the manner provided by law in respect of such railway, to have been actually suffered: Provided always, that any such snow fences so erected shall be removed on or before the first day of April next following.

Proviso.

Telegraph lines.

43. For the purpose of constructing, working and protecting the telegraph lines to be constructed by the company on their line of railway, the powers conferred upon telegraph companies, by the Act respecting electric telegraph companies are hereby conferred upon the company, and the other provisions of the said Act for the working and protection of telegraph lines shall apply to any such telegraph lines constructed by the company.

Contracts for construction.

44. It shall be lawful for the directors to enter into a contract or contracts, with any individual or association of individuals, for the construction or equipment of the line, or any portion thereof, including or excluding the purchase of the right of way, and to pay therefor, either in the whole or in part, either in cash or bonds or in paid up stock: Provided that no such contract shall be of any force or validity till approved of by a majority of the shareholders, present in person or by proxy, at a meeting specially convened for considering the same.

Proviso.

Power to purchase land for yards, etc.

45. The company shall have full power to purchase land for yards, warehouses, elevators, docks, stations, workshops and

and offices, and to sell and convey such land as may be found superfluous for any such purpose.

46. The said railway company shall, at all times, receive and carry to the town of Chatham, cordwood, or any wood for fuel, at a rate not to exceed, for dry wood, three cents per mile per cord, and at a rate not exceeding four cents per mile per cord for green wood, in full car loads, and the company shall furnish every facility necessary for the free and unrestrained traffic in cordwood to as large an extent as in the case of other freight carried over the said railway. Cordwood or wood cut for fuel before the first day of April in any year, shall be deemed for the purpose of this Act, dry wood, by the first of October following, and not before.

47. The company shall construct a switch, or siding, at a point about equidistant between the town of Chatham and the Canada Southern Railway, with sufficient yards and grounds for the piling and storing of cordwood and fuel, for the purpose of facilitating the traffic in cordwood and its transportation over their said railway to Chatham.

48. The said railway company shall, at all times, receive and carry into the town of Chatham, for the construction and repairs of the highways therein, gravel at reasonable rates for carriage, and shall furnish every facility necessary for the free and unrestrained traffic in the same to as large an extent as in the case of other freight carried over the said railway.

SCHEDULE "A".

(Section 5.)

Know all men by these presents, that I (or we) [*insert the names of the vendors*] in consideration of _____ dollars paid to me (or us) by the Chatham and Charing Cross Railway Company, the receipt whereof is hereby acknowledged, do grant and convey, and I (or we) [*insert the names of any other parties*] in consideration of _____ dollars paid to me (or us) by the said company, the receipt whereof is hereby acknowledged, do grant or release all that certain parcel (or those certain parcels, *as the case may be*) of land [*describe the lands*] the same having been selected and laid out by the said company for the purposes of their railway, to hold with the appurtenances unto the said Chatham and Charing Cross Railway Company, their successors and assigns, [*here insert any other clauses, covenants, or conditions required*] and I (or we) the wife (or wives) of the said _____ do hereby bar my (or our)

our) dower in the said lands. As witness my (or our) hand and
 seal (or hands and seals) this day of
 A.D. 18 .

Signed, sealed and delivered }
 in presence of } (L.S.)

SCHEDULE "B."

(Section 30.)

Chief Engineer's Certificate.

The Chatham and Charing Cross Railway Company's Office,
 Engineer's Department, No. , A.D. 188 .

Certificate to be attached to cheques drawn on the Chatham
 and Charing Cross Railway Company Municipal Trust
 Account, given under section chapter of the
 Acts of the Legislature of Ontario, passed in the
 year of Her Majesty's reign.

I, A. B., Chief Engineer for the Chatham and Charing Cross
 Railway Company, do certify that the said company has fulfilled
 the terms and conditions necessary to be fulfilled under the
 by-law No. of the Township of (or under the
 agreement dated the day of between
 the Corporation of and the said company) to entitle
 the said company to receive from the said trust the sum of
 (here set out the terms and conditions, if any,
 which have been fulfilled).

CHAPTER 61.

An Act to amend the Acts relating to the Credit
 Valley Railway Company.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS it has been found expedient to amend the Acts
 relating to the Credit Valley Railway Company,
 and to enable the said company to make a new issue of
 bonds or debenture stock, and to provide for the adjustment
 of the floating debt of the said company:

Therefore Her Majesty, by and with the advice and consent
 of the Legislative Assembly of the Province of Ontario, enacts
 as follows:—

1.

1. The said company may, with the consent of a majority of two-thirds in value of the shareholders thereof, represented at a meeting specially called for that purpose, make and issue new consolidated bonds or debenture stock for an amount not exceeding twenty thousand dollars per mile upon the actual mileage from their terminus in Toronto to the town of St. Thomas, on the main line, and from Streetsville to Orangeville and Elora, on the branch line, payable at such time and place, and bearing such rate of interest as the company may determine; and such new bonds or stock shall, without registration or conveyance, be the first preferential claim, lien or charge upon the undertaking and the property of the company, real and personal, then existing or at any time thereafter acquired; and each holder of the said bonds or stock shall be deemed to be mortgagees and incumbrancers *pro rata* with all the other holders thereof upon the aforesaid undertaking and property of the company in priority to all other charges and incumbrances: Issue of new consolidated bonds and debenture stock authorized. Provided that the powers conferred by this section to issue the said new bonds or debenture stock are not to be exercised until two-thirds in value of the existing bondholders, represented at a special meeting called for the purpose, have agreed to the issue of the said bonds, and to accept new bonds or debenture stock to be issued in exchange and substitution for the bonds now held by them. Proviso.

2. The said company may secure such bonds and interest by the execution of a mortgage deed to a trustee or trustees upon the undertaking and property of the company, real and personal, then existing or at any time thereafter acquired. Bonds may be secured by a mortgage.

3. It shall not be necessary, in order to preserve the priority, lien, charge, mortgage or privilege, purporting to appertain to or be created by any mortgage deed executed under the provisions of this Act, that such deed should be registered in any manner, or in any place whatever; but a duplicate of every such mortgage deed shall be deposited in the office of the Provincial Secretary, of which deposit notice shall be given in the *Ontario Gazette*. Registration of mortgage not required, but copy to be filed with Provincial Secretary.

4. Provided two-thirds in value of the existing bondholders and two-thirds in value of the shareholders, represented at a meeting, or meetings, specially called for that purpose, agree thereto, the said company shall call in and cancel all their outstanding bonds heretofore issued, and shall issue to each person holding any of the said bonds now outstanding new bonds or debenture stock to an amount sufficient to equal the face value of the bonds so held by them, such new bonds or debenture stock to be dated on the first day of April one thousand eight hundred and eighty one and to bear interest from that date. When company to call in outstanding bonds.

5.

Old bonds to be cancelled when new issue of bonds or debenture stock made.

5. On the issue by the company of the said bonds or debenture stock under this Act, all bonds heretofore issued by the said company and outstanding shall be called in and cancelled, and the said bonds so called in shall no longer form any lien or charge on the said company, or be of any force or effect, and in the event of the said existing bondholders failing to deliver up the bonds held by them, the said company shall issue and reserve a sufficient amount of bonds or debenture stock under this Act to meet the said bonds not so delivered up to be cancelled.

Issue of new bonds or stock to terminate existing powers as to bonds.

6. On the issue of the said bonds or debenture stock as provided by this Act, all powers heretofore existing to issue bonds under any former Act shall terminate and cease.

Provisions as to bonds.

7. The bonds which may be issued under this Act shall be under the seal of the company and shall be signed by the president or vice-president of the company, and countersigned by the secretary, and may be issued, payable to bearer, either in sterling or in currency of Canada, or partly in sterling and partly in currency, at such place or places in Canada, or Great Britain, as may be deemed advisable, and shall be transferable by delivery, and the holder of any bond made payable to bearer may sue thereon in his own name.

Debenture stock may be made perpetual or terminable.

8. The said debenture stock may be made either perpetual or terminable, and may be made, executed and issued in such form as the said company, with the consent aforesaid, may determine.

Rights of bondholders and debenture stockholders if interest not paid.

9. In the event, at any time, of the interest upon the said new bonds or debenture stock remaining owing and unpaid, then at the next ensuing general annual meeting of the company and at all subsequent meetings; so long as the said interest shall remain unpaid, all holders of said new bonds or debenture stock shall have the same rights as the holders of the now existing bonds have or had under the thirty-sixth section of the Act passed in the thirty-fourth year of the reign of Her Majesty Queen Victoria, chaptered thirty-eight.

Power to pledge bonds.

10. The company may sell, hypothecate or pledge the bonds or debenture stock to be issued hereunder, and not exchanged for existing bonds or reserved for such exchange, and may apply and use the proceeds for the benefit of the said company as they shall see fit: Provided that of the said new bonds or debenture stock, an amount to the face value of six hundred thousand dollars, or that proportion of the proceeds of the whole issue when sold by the company, shall be deposited with the firm of Morton, Rose and Company, of the city of London, England, and such firm or their agents in the city of Toronto, shall receive and hold the proceeds thereof for the payment of the debts (other than the bonded debt) of the company, such bonds

bonds or debenture stock, or such proceeds so held by the said Morton, Rose and Company, or their agents, in the city of Toronto, shall be paid out on the order of Kenneth Chisholm, of the town of Brampton, and Valancey E. Fuller, of the city of Hamilton, Esquires, who are creditors of the said company, and who are hereby appointed creditors' trustees, and such proceeds shall be applied by such creditors' trustees:

Firstly—In payment of the remuneration and expenses of the said trustees, not exceeding as to remuneration one-half of one per cent. of the proceeds of the said bonds;

Secondly—In payment of all moneys necessary to be paid for the discharge of the receiver appointed by the Court of Chancery, in the suit therein of Lee against the said company;

Thirdly—In payment of all claims for right of way, including all expenses incurred by any person on behalf of the company, in protecting the right of way parcels from lien sales, or other legal proceedings affecting the same, and for the purchase and acquirement, at such prices as may be agreed upon by the said company, and the said trustees, and the respective owners, of such of the parcels of land forming part of the said railway of the said company, as have heretofore been sold under decrees to enforce the vendors' liens against such lands, and in case of difference, the amount payable therefor shall be determined by arbitration, under the provisions of the Railway Act of Ontario, respecting lands and their valuation, and in payment of other preferred debts of the said company;

Fourthly—In payment *pro rata*, to creditors who elect to come in and accept the provisions of this Act, of the other debts of the said company; and,

Lastly—Any residue shall be paid over to the said company. And the said creditors of the said company who elect to come in and accept the provisions of this Act, and whose claims are provided for under the fourth clause of the said trust, and each of them, in respect of their several and respective debts, and who from the security hereby provided, or from any source other than from securities now held by them respectively, receive not less than fifty per centum of the respective claims, shall have no further or other right or claim against the said company, and all and every of the respective debts and claims of the said creditors, and each of them, shall thereupon be barred and discharged as against the said company, and the only right of the said creditors, and every of them, shall be against the said bonds or debenture stock so deposited as aforesaid, or the proceeds arising from the sale thereof, and in case the amount distributable under the fourth clause of the said trust, does not pay the said creditors fifty per centum of their respective claims, to have paid to them sufficient to make up such percentage, saving always the respective rights of the said creditors against any surety or sureties, or against any collateral or other security for their said several debts. And provided that the said company, with the consent and approval of the said trustees, shall have the right to compromise or settle the
amount

amount of any lien holder's or other creditor's claim not already fixed and determined, and the said trustees may allow claims as duly proved, at the amounts allowed in the said suit of Lee against the said company or may accept proof thereof by statutory declaration: And provided that in cases where, either from inability to settle the amount payable, or if from any other cause claims remain in such a position that they cannot speedily be paid or closed, the said trustees shall not, on that account, delay the distribution of the said fund, but they shall reserve a sufficient amount in their discretion to meet such claims, and they shall not be liable to such claimants beyond the respective amounts so reserved, and the said trustees may pay into the Court of chancery, under the Trustee Relief Act, any such sums, according to the practice of the said court: And, provided that the said company shall not sell the bonds or debenture stock so deposited for less than seventy per cent. of the face value thereof, deducting brokerage, without the consent in writing of the said trustees: Provided that, in case the said trustees shall differ in opinion in any matter relating to the said trust or its execution, the matter in difference shall be referred to Peleg Howland, Esquire, whose decision in every such matter of difference shall be final: Provided always, that the purchaser, or purchasers, of the said bonds or debenture stock shall not be responsible for the application by the company, or any person, of such moneys, nor as to the execution of the said trusts.

Notice of meetings.

11. All meetings in this Act referred to shall be advertised once a week in some daily newspaper published in Toronto, and in the *Ontario Gazette* for four consecutive weeks, immediately preceding the week in which such meetings are held, and the object of the meeting shall be clearly stated therein, and at any such meeting any bondholder or shareholder may act or vote in person or by proxy; each bondholder shall have one vote for each one hundred pounds sterling of bonds held by him.

A vote of two-thirds in value to bind all bondholders.

12. In case at any such meeting it be resolved by a vote of two-thirds, or more, in value of the bondholders and shareholders there present, or represented, that the existing bonds shall be exchanged for new bonds or debenture stock, (either perpetual or terminable), under the provisions of this Act, such resolution shall be binding on all bondholders and shareholders, whether present or represented or not, and whether dissenting or not, and upon any transferee or subsequent holder of existing bonds or shares.

Rights of bondholders.

13. After the passing of any such resolution, the only right of the holders of existing bonds, in respect of principal or interest, shall be to exchange their bonds for the bonds or debenture stock authorized by this Act, and the only liability of the company shall be to make such exchange; and no bondholder shall, if two-thirds of the said bondholders shall so determine,

determine, be entitled to anything in respect of arrears of interest or accruing interest up to the thirty-first day of March, in the year one thousand eight hundred and eighty-one on his bonds, and the unpaid interest coupons shall, in that case, be given up to and be cancelled by the company on the said exchange.

Liability of company.

Interest not to be included.

14. In case, without any such meeting as is hereinbefore provided for, two-thirds or more in value of the shareholders and bondholders shall, by a memorandum in writing under their hands, agree with each other and with the company that the bonds shall be exchanged for new bonds or debenture stock, and that the unpaid interest coupons and interest up to the thirty-first day of March, one thousand eight hundred and eighty-one, shall be cancelled and discharged such agreement shall be binding on all the shareholders and bondholders, whether signatories of the said memorandum or not, and whether dissenting or not, and on any transferee or subsequent holder of any share or bond, and in such case the same things shall be done and the same results shall follow, *mutatis mutandis*, as are herein provided in case of a resolution for such exchange.

Agreement by two-thirds of shareholders and bondholders to bind the rest.

15. The company shall have in the case mentioned and provided for in the next preceding section, all powers necessary for the making, issue and exchange of the said new bonds and debenture stock, and for carrying out the objects of this Act in relation thereto, and may make, prior to the issue of such new bonds or stock, such rules and provisions for the registration and transfer thereof, as to them may seem expedient.

Company to have all necessary powers.

16. The power of attorney granted to George Laidlaw, by the said company, dated the fifth day of November, in the year of our Lord one thousand eight hundred and seventy-three, having been surrendered by him to the company, and the object for which the same was given having been accomplished, is hereby revoked and cancelled, save as to all Acts heretofore lawfully done by him thereunder.

Power of attorney to Laidlaw revoked.

17. Section eighteen of the Act passed in the thirty-fourth year of Her Majesty's reign, chaptered thirty-eight, is hereby repealed, and the following substituted therefor:—The number of directors hereafter to be elected by the shareholders shall not be less than seven, nor more than eleven, and such number shall be fixed from time to time by by-law, to be passed by the shareholders' directors, and any meeting of the directors of the said company regularly summoned, at which not less than five directors shall be present, shall be competent to exercise and use all and every of the powers hereby vested in the said directors.

34 Vic., c. 38, s. 18, repealed.
Number of directors.

37 Vic., c. 42,
s. 6, repealed.

Certain muni-
cipalities may
appoint direc-
tors.

Proviso.

18. Section six of the Act passed in the thirty-seventh year of Her Majesty's reign, chaptered forty-two, is hereby repealed, and the following substituted therefor: The council of any municipality which shall grant or has granted a bonus of not less than fifty thousand dollars in aid of the said company, whether by way of exchange of their own debentures for the debentures of the said company, or otherwise, shall be entitled to name a director in the said company as the representative of that municipality: Provided always, that such director shall be a *bona fide* taxpayer, and resident within said municipality which grants the bonus in aid of said company; and such director shall be, in addition to all shareholders' directors in the said company, and shall not require to be a shareholder in the said company, and shall continue in office as director in the said company until his successor shall be appointed by the municipality which he represents, but no such directors shall in any way be responsible or liable for, or in respect of, the stock, bonds, bills, notes, capital assets, or credits of the said company, and the exclusive right to control, and deal with the stock, bonds, bills, notes, capital assets, and credits of the said company, shall belong to and rest with the directors elected by the shareholders: Provided that the said municipal directors shall have no voice in the election of any shareholders' directors in case of a vacancy in the board to be filled by the directors: Provided always that the municipal director for the town of Ingersoll shall, whenever the interest on the debentures of the said company to be received by the said town in exchange for those now held by the said town, under the provisions of this Act, shall be in arrear, and so long as the same continues in arrear, and so long as the said debentures are held by the said town, have all the powers of a director elected by the shareholders.

Time for com-
pletion.

19. The construction of the said railway shall be completed within three years after the passing of this Act.

Certain stock
to be deemed
paid up stock.

20. All shares in the capital stock of the said company purporting to have been made, issued, allotted or handed over as paid up stock under the authority of section five of the Act passed in the thirty-seventh year of Her Majesty's reign chaptered forty-two, shall be deemed to be paid up stock notwithstanding any irregularity in making, issuing, allotting or handing over the same.

CHAPTER 62.

An Act to extend the time for the completion of the
Erie and Huron Railway.

[Assented to 4th March, 1881.]

WHEREAS the Erie and Huron Railway Company have ^{Preamble.} petitioned that an Act may be passed to amend the Act for the incorporation of the said company, passed in the thirty-sixth year of Her Majesty's reign, and chaptered seventy, and the several Acts amending the said Act, so as to extend the time for the completion of the said railway to a further period of one year from the time already fixed for the completion thereof, by the Act passed in the forty-first year of Her Majesty's reign, chaptered forty-five; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The time for the completion of the said railway is hereby extended for the further period of one year from the time now limited for the completion thereof, by the Act passed in the forty-first year of Her Majesty's reign, and chaptered forty-five. Time for completion of railway extended.

2. Notwithstanding the provisions of section six of an Act of the Legislature of the Province of Ontario, passed in the forty-second year of the reign of Her Majesty Queen Victoria, chapter sixty-one, intituled, "An Act to legalize certain by-laws and debentures of the county of Kent in aid of the Erie and Huron Railway Company," no further or other sums of money (excepting any sum of money that the said railway company may have a valid claim to be paid as moneys that should be paid in accordance with subsections one, two, four, five and six of the said section six, in respect of which claim, if any, the provisions of this Act other than that which extends the time for the completion of the railway are to have no effect whatever) shall be paid over on account of either principal or interest of the proceeds of the debenture fund to the said company or any person or persons on their behalf until the said railway from the Rond Eau harbour to the village of Dresden in a continuous line, including the Wallaceburg branch, is all properly graded, culverts put in, bridged, furnished with ties and rails properly laid and fully ballasted and equipped and in running order, ready to receive the rolling stock, when the balance of the money of said fund remaining in the hands of the trustees, both of principal and interest, shall become payable to the said company or their assigns, and not before, anything in the said sixth section of the said Act to the contrary notwithstanding. Certain moneys not to be paid till completion of line from Rond Eau harbour to Dresden.

CHAPTER

CHAPTER 63.

An Act respecting the Georgian Bay and Wellington Railway Company.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the Georgian Bay and Wellington Railway Company have petitioned that an Act may be passed to extend the powers of the said company, and to confirm certain by-laws granting aid to the said company, and for other purposes; and whereas, it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Time limited
in a certain by-
law of Mount
Forest extend-
ed.

1. The time limited for the completion of the section of the said road between Palmerston and Durham, in and by by-law number one hundred and thirty-one of the village of Mount Forest, granting aid to said railway, is hereby extended six months.

Palmerston by-
law sufficiently
complied with
if present
station main-
tained.

2. It is hereby declared that the condition contained in the by-law of the town of Palmerston, providing for maintenance of a freight and passenger station by said company, as therein set forth, will be fully performed and observed by said company for all purposes whatsoever, so long as the present station of the Stratford and Lake Huron Railway at said town shall be maintained.

True construc-
tion of Palmer-
ston by-law
declared.

3. And whereas it is necessary to remove an ambiguity in the third and fourth conditions of said last named by-law, it is hereby declared that the balance referred to in the said fourth condition is the entire balance now in the hands of the statutory trustees, whether the same is twenty-five per centum or not, and said fourth section is hereby amended by striking out the words "being twenty-five per centum."

Certain by-
laws granting
aid to company
confirmed.

4. The by-laws heretofore passed by the municipal corporation of the town of Mount Forest, granting aid to said railway company, on the sixth and tenth days of September last, respectively, and the by-law of the municipal corporation of the town of Durham, also granting aid to said railway, passed on the sixth day of July last, and all debentures now issued or that may hereafter be issued under and in pursuance of the said by-laws, are hereby declared to be legal, valid and binding upon the said corporations, and the ratepayers thereof, any law, custom and statute, to the contrary notwithstanding, and notwithstanding any omission or defect in point of form or otherwise, in said by-laws, or any of them, or in the passing of the same, or in any way whatsoever.

5.

5. The said company shall have power to sell, free from any lien or incumbrance whatsoever created by them by virtue of any Act relating to said company, any lands acquired by them which shall cease to be required for the use of the said company: Provided always that in case of right of way the person owning the remaining portion of the lot through which such right of way runs shall have the first right and privilege of purchasing.

Power to sell
surplus lands.

6. And whereas, on the tenth day of September last, the said company did agree with the municipal corporation of the town of Mount Forest, upon the form of release necessary to meet the requirements of the conditions set out in by-law number fifteen of the said town above referred to in section four of this Act, which said release has been executed by the said company in duplicate, and is set forth in Schedule "A" to this Act, the said instrument set forth in Schedule "A" is hereby legalized and made valid for the intents and purposes for which the same was executed according to the intent and meaning thereof, and is declared to be legally sufficient to accomplish the purpose therein intended; and it is hereby declared that upon the deposit of a duplicate of said instrument properly executed by said company, with the clerk of said town, together with the certificate of the chief engineer of said company therein described, all of the conditions of said by-law shall have been complied with, and that no person or corporation shall have any right or claim as against the said corporation of the said town to the execution and delivery of the series of debentures to the extent of four thousand dollars contemplated by by-law number fourteen of the said corporation above referred to.

Release set
forth in
schedule "A"
confirmed.

7. And whereas, the said company, and the Grand Trunk Railway company have entered into a certain agreement which is set forth in Schedule "B" to this Act, the said agreement is hereby declared to be legal and binding, save that this Act shall not be construed as conferring any power upon the Grand Trunk Railway of Canada to enter into said agreement or any power whatsoever, but shall apply solely to the said railway company.

Agreement set
forth in sche-
dule "B" con-
firmed.

8. The shares of the capital stock of the said company now subscribed for, together with the remainder of the stock authorized to be issued under the charter of the said company, shall, from and after the date of the transfer to such trustee as referred to in said agreement, be deemed and taken to be paid up in full to all intents and purposes whatsoever, as fully and effectually as if the same had been fully paid up in money for calls to said company in the usual way, and the original subscribers therefor, and any holders thereof are hereby respectively declared to be free from any liability for calls in respect thereof or for payment otherwise on account thereof, from and after the date of such transfer: Provided, that

Stock trans-
ferred to trustee
under
agreement to
be deemed paid
up stock.

that nothing in this section shall in any way affect any right or claim that any person shall have at said date in respect of non-payment of right of way, or for damages from imperfect crossings or approaches.

SCHEDULE "A."

(Section 6.)

This Indenture, made in duplicate, the tenth day of September, in the year one thousand eight hundred and eighty, between the Georgian Bay and Wellington Railway Company, of the first part, and the municipal corporation of the town of Mount Forest, of the second part.

Whereas under and by virtue of a certain by-law of the said town, numbered fourteen and entitled, "To aid the Georgian Bay and Wellington Railway Company, by granting thereto the sum of seven thousand dollars by way of bonus, and to issue debentures therefor, and to authorize the raising of an annual sum for the payment of the said debentures and the interest thereon," which said by-law was duly passed and read the third time on the sixth day of September, one thousand eight hundred and eighty, the said party of the second part did grant to the party of the first part the sum of seven thousand dollars by way of bonus, in the manner and on the conditions expressed in the said by-law ;

And whereas under and by virtue of a subsequent by-law of the said town, numbered ten and entitled, "To aid the Georgian Bay and Wellington Railway Company by granting thereto the sum of four thousand dollars by way of bonus, and to issue debentures therefor, and to authorize the levying of a special rate for the payment of the said debentures and the interest thereon," which said by-law was duly passed and read a third time on the tenth day of September, one thousand eight hundred and eighty, the said party of the second part did grant to the said party of the first part by way of bonus the sum of four thousand dollars, in the manner and upon the conditions expressed in the said by-law ;

And whereas it was one of the conditions of the last mentioned by-law, that the debentures representing the said bonus of four thousand dollars should not be delivered to the statutory trustees appointed under the charter of the party of the first part until a proper legal release of the debentures contemplated by the first of the above-named by-laws to the extent of four thousand dollars, being the ones to be issued under the terms of the said first mentioned by-law, upon the completion of the railway of the party of the first part to Owen Sound, should be delivered by the said party of the first part to the said party of the second part ;

Now, therefore, this Indenture witnesseth that in consideration of the premises and of the delivery to the said statutory trustees of the debentures contemplated by the second of the above

above by-laws (when the same shall have been so delivered), the said party of the first part doth release, quit claim, and forever yield up to the party of the second part, its successors and assigns, all claims, rights and demands whatsoever, whether in possession or expectancy, and whether at law or in equity, or howsoever, which the party of the first part now has or may have in the future against the said party of the second part or its successors, or the ratepayers, or the property of the said town, for the issue of the said debentures to the extent of four thousand dollars, under the first of the above-mentioned by-laws, but nothing herein contained is in any way to impair the right of the said party of the first part to the remaining three thousand dollars of debentures contemplated under said first mentioned by-law, in accordance with the conditions thereof, it being the intention of all parties to substitute the four thousand dollars of debentures to be issued under the second by-law for the like amount under the first by-law, and that the party of the first part shall receive seven thousand dollars in all under both, according to the terms thereof.

In witness whereof the party of the first part has caused its corporate seal, and the hand of its president and secretary to be affixed hereto, the day and year first above written.

SCHEDULE "B."

(Section 7.)

{ L. S. }

This agreement made this tenth day of April, in the year of our Lord one thousand eight hundred and eighty, by and between the Georgian Bay and Wellington Railway Company of the first part, and the Grand Trunk Railway Company of Canada, of the second part: Witnesseth that the said parties have and hereby do covenant and agree each with the other in manner following, that is to say:—

1. That in this agreement the words "The Georgian Bay Company" shall mean the party of the first part, and the words "The Grand Trunk Company" shall mean the party of the second part.

2. That the Georgian Bay Company will proceed with the work of completing their line, and will finish and complete the same from Durham to a junction with the Stratford and Lake Huron Railway Company's line in or near the town of Palmerston, in the county of Wellington.

3. That they will ballast and fence their line and provide station and freight buildings, sidings, water supply, road and other crossings, railway ties, and all other things requisite to complete, and they will furnish and complete the said railway in all and each and every respect, to the entire satisfaction of the general manager for the time being of the Grand Trunk Company.

4. That they, the Grand Trunk Company will supply the iron for the road and will lay it during the summer months, and

and if reasonably possible, before the first of July now next, provided the said Georgian Bay Company have performed their part of the agreement, so that the Grand Trunk Company can reasonably get on with their work.

5. That for the purpose of ballasting and such like work, the Grand Trunk Company will supply an engine and cars free of charge.

6. That on the completion of the line the Grand Trunk Company will supply the necessary engine power and equipment, and will efficiently work the said line.

7. That the shares of the capital stock of the Georgian Bay Company shall be transferred to a person to be named by the Grand Trunk Company, so as to give them the control of the said line and the Georgian Bay Company's property connected therewith.

8. That when the work is completed, then the said capital stock shall be held by the person so named, or by some one to be approved or named by the Grand Trunk Company in place of such person, in trust for said Company.

9. That all accounts of contractors, and all claims and demands arising out of or connected with the work to be done by the Georgian Bay Company, also all land claims and damages to be paid and discharged by the Georgian Bay Company, or suitable provision to be made, to the satisfaction of the Grand Trunk Company, for their discharge by the Georgian Bay Company.

In witness whereof the said parties hereto have hereunto affixed their corporate seals the day and year first above written.

{ L. S. }

CHAPTER 64.

An Act respecting the Grand Junction Railway Company.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the Grand Junction Railway Company have by their petition prayed that an Act may be passed for the several purposes in relation to the said company hereinafter set forth, and it is expedient to grant the prayer of the said petition ;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1.

1. The deed of amalgamation of the said the Grand Junction Railway Company and the Belleville and North Hastings Railway Company, duly executed by the said companies respectively, in pursuance of the Acts relating to the said companies passed in the forty-second year of the reign of Her Majesty, and dated on the twenty-ninth day of June in the year of our Lord one thousand eight hundred and eighty, is hereby declared legal and valid; and it is hereby declared and enacted that the said two companies are amalgamated and united under the name of the Grand Junction Railway Company, on the terms and subject to the provisos and conditions in the said deed contained: Provided that the Acts incorporating the said respective companies and the Acts amending the same authorized such amalgamation and conditions.

Amalgamation of the Grand Junction and the Belleville and N. Hastings companies confirmed.

2. The bonds made and issued by the said company, bearing date the first day of July, in the year of our Lord one thousand eight hundred and eighty, to the amount of nine hundred thousand dollars, payable on the first day of July, in the year of our Lord one thousand nine hundred, with interest half-yearly at the rate of five per centum per annum; and the indenture of mortgage made and executed by the said company, bearing date the sixteenth day of July, in the year of our Lord one thousand eight hundred and eighty, to and in favour of John Macdougall, of the city of Montreal, iron manufacturer, and Edward Oscar Bickford, of the city of Toronto, iron merchant, as trustees, to secure the said bonds, are hereby declared to be legal and valid, and to be and constitute a lien and charge on the said railway and its property and undertaking, in accordance with the Statutes relating to the said two companies so amalgamated as aforesaid, and the terms and conditions of the said indenture of mortgage.

Bonds and mortgage confirmed.

3. The Company is hereby authorized and empowered to extend its line of railway from a point at or near Chemong Lake to the village of Bobcaygeon, and thence to the village of Fenelon Falls and to a point of junction with the Victoria Road.

Extension authorized.

4. The indenture of lease made and executed by the Cobourg, Peterborough and Marmora Railway and Mining Company to the said the Grand Junction Railway Company, bearing date the sixteenth day of July, in the year of our Lord one thousand eight hundred and eighty, and being that portion of the line and property of the said the Cobourg, Peterborough and Marmora Railway and Mining Company, in the said lease described, is hereby declared legal and valid to all intents and purposes, excepting in so far as it may be finally decided in the suit now pending between the Grand Junction Railway and the Midland Railway of Canada, that the said Midland Railway is entitled to any portion of the line or lands embraced in the said lease: Provided always, and it is hereby declared that the

Lease by Cobourg, P. and M. railway confirmed.

the said lease is only declared legal and binding subject and without prejudice to the bonds of the Cobourg, Peterborough and Marmora Railway and Mining Company, and that nothing herein contained shall in any wise affect, impair or prejudice the rights of any holder of such bonds.

CHAPTER 65.

An Act respecting the Hamilton and Dundas Street Railway Company.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the Hamilton and Dundas Street Railway Company have petitioned that an Act may be passed to amend the Acts incorporating and relating to the said company, to enable them to re-adjust their capital account, and to enable them to acquire, sell, and mortgage lands for park purposes connected with the business of the company, and to make applicable to the said company certain sections of the Railway Act of Ontario; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Preference and ordinary stock.

1. The capital stock of the said company is hereby declared to consist of the twenty-six thousand dollars in shares of stock now issued and outstanding, and of the further issue hereby authorized of twenty thousand dollars preferred or debenture stock which shall have preference and priority, after the bonded debt, against the earnings and assets of the said company over said first issue of stock for the amount thereof, and for dividends thereupon, not exceeding eight per centum per annum; and the said company are hereby authorized to issue said preferred stock, at such rates and at such times as may be determined by the directors of the said company, and the proceeds of such issue shall be the property of the company, applicable in and towards payment of their outstanding obligations and towards the improvement and extension of the undertaking of the said railway.

Preference stock may be either perpetual or terminable.

2. The said preferred or debenture stock may be either perpetual or terminable, and while outstanding the holders thereof shall have all the powers and qualifications of ordinary shareholders.

3.

3. The company are hereby authorized to call in, cancel and revoke their first issue of bonds authorized under the Act passed in the thirty-ninth year of Her Majesty's reign, and chaptered eighty-seven, amounting in all to the sum of twenty-five thousand dollars, and also to call in and revoke the further issue of bonds under the statute, amounting to five thousand dollars; and the said company are hereby authorized and empowered to make and issue bonds of the said company to the total extent of fifty thousand dollars, the said bonds being payable in twenty years, from the first day of March, one thousand eight hundred and eighty-one, and bearing interest at the rate of six per centum per annum, which said bonds shall be taken and considered to be the first preferential claim and charge upon the undertaking and real property of the company, including its rolling stock and equipments then existing, and at any time thereafter acquired, subject always to the lien of any unpaid vendor in respect of any of said property, and each holder of the said bonds so issued and to be issued as hereinbefore provided shall be deemed to be a mortgagee and incumbrancer *pro rata* with all the other holders thereof upon the undertaking and property of the company as aforesaid: Provided that if any of the bonds of the said company of the first or further issue are not surrendered to and cancelled by the said company, the new issue hereby authorized shall be reduced by the amount not so surrendered and cancelled, so that the aggregate issue of bonds shall not exceed fifty thousand dollars.

Power to call in outstanding bonds and make new issue.

Proviso.

4. The said company is hereby authorized to purchase, lease, mortgage, dispose of, let, sell and convey the lands and premises adjacent to the said railway situate in the township of Barton, contracted for with one Eliza Ainslie and now in the possession of the said company, known as "Ainslie Wood," and being those parts of lots twenty-one in the third and fourth concessions of the said township immediately to the east of the Ancaster town line and to the north of the line of the said railway, containing fourteen acres more or less, and the said company are authorized to improve and lay out the said lands as a park or place of public resort.

Power to acquire certain lands.

5. It is hereby declared and enacted that sections thirty-four, thirty-nine, forty, forty-one, forty-two, ninety-five, ninety-six and ninety-seven of chapter one hundred and sixty-five of the Revised Statutes of Ontario shall be applicable to the said the Hamilton and Dundas Street Railway, and the said sections are hereby incorporated with and declared to form part of the charter of the said company: Provided that nothing herein contained shall give the said company any right to expropriate lands within the city of Hamilton or the town of Dundas.

R. S. O., c. 165, ss. 34, 39, 40, 41, 42, 95, 96, 97 to apply to company.

CHAPTER 66.

An Act further to amend the Acts relating to the Hamilton and North-Western Railway Company.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the Hamilton and North-Western Railway Company (hereinafter called the North-Western) and the Northern Railway Company of Canada (hereinafter called the Northern) entered into an agreement bearing date the sixth day of June, one thousand eight hundred and seventy-nine, for the joint working of their railways, and such railways have been worked under such agreement since the first day of July, one thousand eight hundred and seventy-nine; and whereas the North-Western have by their petition represented, that for the more efficient and economical working of the said railways, it has become necessary to raise additional capital, and the directors of the said two companies have entered into an agreement bearing date the twenty-first day of February one thousand eight hundred and eighty-one, for the issue of joint working and equipment bonds of the Northern to the amount of one hundred and thirty-four thousand pounds sterling, and of joint working and equipment bonds of the North-Western to the amount of sixty-six thousand pounds sterling, and for the sale and disposal and application thereof; and the North-Western have prayed for authority to issue such bonds, and it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Issue of "joint working and equipment bonds" by North-Western authorized.

1. It shall and may be lawful for the directors of the North-Western to issue six hundred and sixty bonds of that company, each of the amount of one hundred pounds sterling, to be called and known as "Joint Working and Equipment Bonds." The principal of such bonds shall be made payable on the first day of June, one thousand eight hundred and ninety-eight, and the interest thereon half-yearly on the first day of June and December in each year, and the principal and interest shall be payable at such place and the interest shall be at such rate, not exceeding six per cent. per annum, as the directors of the said company may determine; and such joint working and equipment bonds shall form a claim and charge upon the undertaking and real and personal property of the said company, subject, however, to the claim and charge thereon of the existing first mortgage bonds of the company, and the interest thereon shall be payable next after the payment of the interest on the said first mortgage bonds. In the event

at

at any time of the interest on such joint working and equipment bonds remaining unpaid and owing, then the holders of such bonds shall have and possess the same rights and privileges and qualifications for directors and for voting, as are attached to shareholders: Provided the said bonds and any transfers thereof shall have been first registered, as provided for the registration of shares, and it shall be the duty of the secretary to make such registration on request.

2. The bonds hereinbefore authorized to be issued shall and ^{Bonds may be sold or pledged.} may be sold, pledged or hypothecated, and the proceeds thereof used and applied as provided in such agreement of the twenty-first day of February, one thousand eight hundred and eighty-one.

3. The bonds by this Act authorized shall not be issued by ^{When bonds may be issued.} the directors of the said company, unless and until such issue be approved by a two-thirds majority in value of the holders of the preference and ordinary stock of the North-Western, present in person or represented by proxy, at a meeting of the holders of such preference and ordinary stock specially called for that purpose, nor unless the Northern shall have obtained the necessary authority and consent to issue the joint working and equipment bonds of that company, as likewise provided for in such agreement.

CHAPTER 67.

An Act respecting the Midland Railway of Canada.

[Assented to 4th March, 1881.]

WHEREAS the Midland Railway of Canada have petitioned ^{Preamble.} the Legislature for certain amendments to their Acts of incorporation, and all other Acts amending the same or affecting the said railway company, and for power and authority to extend the main line or branches of the said railway, from a point at or near the village of Omeme, in the county of Victoria, to the town of Peterborough, and for certain other amendments; and, whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Unless the context shall require a different interpretation ^{Interpretation.} of the words hereby interpreted in the construction of this Act, the words "the company" shall mean the Midland Railway of Canada, and the words "the railway" the railway of the Midland Railway Company.

2.

Branch from
Omemece to
Peterborough
authorized.

2. The company are hereby empowered and authorized to construct and extend the railway or construct a branch thereof as they may deem most expedient, with all the works, stations and equipments thereof from a point at or near the village of Omemece, in the county of Victoria, to the town of Peterborough, by such route as may seem expedient.

Powers of com-
pany.

3. The company shall for the purposes mentioned in the second section of this Act have and exercise all the powers conferred by their own Acts of incorporation and Acts amending the same, and the Railway Act of Ontario; and the several clauses of the Railway Act of Ontario with respect to "interpretation," "powers," "plans and surveys," "lands and their valuation" shall be deemed to be part of this Act, and shall apply to the said company and the extensions and branches authorized by the second section hereof, as if expressly incorporated in this Act.

Provisions of
41 Vic., c. 49,
ss. 13-24 to
apply.

4. All the provisions of the Act of Ontario (chapter forty-nine), passed in the forty-first year of Her Majesty's reign, from section thirteen to section twenty-four, inclusive, shall apply to the said company and the extension authorized by the preceding section as if expressly incorporated in this Act, subject, however, to the provisions of sections sixteen and seventeen of the Act passed in the forty-third year of Her Majesty's reign, and chaptered twenty-seven, and any Act amending or altering the same which may be passed during the present session.

41 Vic., c. 49,
s. 27, repealed.

5. The twenty-seventh section of the Act relating to the Midland Railway of Canada, being chapter forty-nine of the statutes passed in the forty-first year of the reign of Her Majesty Queen Victoria is hereby repealed, and the following enacted in lieu thereof:

Number of
directors.

"27. The number of directors of the said company to be hereafter elected by the shareholders and bondholders shall not be less than seven, of whom not less than five shall be resident in Canada, and four directors shall form a quorum for the transaction of business."

Power to
pledge bonds.

6. And whereas doubts have arisen as to the power of the company to pledge or mortgage the bonds of the company issued pursuant to chapter forty-nine of the Acts passed in the forty-first year of Her Majesty's reign, and chapter fifty-seven of the Acts passed in the forty-third year of Her Majesty's reign, it is hereby declared that the said company had and has power for advance of moneys to be made thereon, to mortgage, deposit and transfer by way of mortgage, or as security, and to pledge all or any bonds that may have been issued by the said company, and the said company are authorized to redeem such bonds so mortgaged or pledged as aforesaid, out of the revenues of the company.

7. It shall be lawful for the company to lease the railway to any other railway company, or to lease the railway of any other railway company, or to enter into working arrangements with or to agree for running powers over the line of any other railway company in Ontario, or passing through Ontario, or to make an agreement with any railway company in Ontario whereby the latter may have running powers over the railway of the company, upon such terms and conditions, and for such periods as may from time to time be agreed upon by the respective boards of directors of the said railway companies and the company: Agreements with other companies. Provided, however, that no such lease or arrangement shall take effect until it shall have been submitted to and received the approval of two-thirds in value of the proprietors or persons having a right to vote at the special or general meetings of the said company, voting in person or by proxy at any special or general meeting of the company: Proviso. Provided, also, Proviso. that such other railway company has been duly authorized to enter into an agreement as aforesaid.

8. It shall be lawful for the company to purchase the line of any other railway company, duly authorized to sell the same, which has now or hereafter may have any railway touching at any point of the main railway of the company, or any extension thereof, together with all and singular, the houses, buildings, stations, station grounds, rights, ways, franchises, privileges and appurtenances of the railway so purchased, upon such terms and conditions as may be agreed upon by the respective boards of directors of the said railway companies, and upon such purchase the company may, so far as this Legislature may have authority to confer such power, exercise all and every, the rights, franchises and privileges conferred by the Acts of incorporation and amending Acts, relating to the said companies: Power to purchase other lines of railway. Provided, however, that no such purchase shall take effect until it shall have been submitted to and received the approval of two-thirds in value of the proprietors or persons having a right to vote at the special or general meetings of the said company, voting in person or by proxy, at any special or general meeting of the company. Proviso.

9. It shall be lawful for the company to sell the railway, together with all and singular, the franchises, houses, buildings, stations, station grounds, rights, ways, privileges and appurtenances of the company, to any other railway company, duly authorized in that behalf, upon such terms and conditions as may be agreed upon by the respective boards of directors of the said companies, and the said railway company so purchasing the railway may, so far as this Legislature may have authority to confer such power, exercise all and every, the rights, franchises and privileges conferred by the Acts of incorporation and amending Acts relating to the said companies: Power to sell railway. Provided, however, that no such sale shall take effect until it shall have been submitted to and received the approval of two-thirds Proviso.

thirds in value of the proprietors or persons having a right to vote at the special or general meetings of the said company, voting in person or by proxy, at any special or general meeting of the company.

Issue of preferential stock authorized.

10. There is hereby created and the company may issue, mortgage, or sell preferential stock to the amount of one hundred thousand pounds sterling, and the holders of the preferential stock hereby created, or so much thereof as may from time to time be created, shall have all the rights and powers as to voting which belong to shareholders in the capital stock of the company, and shall be entitled to receive out of the net profits of the company applicable to the payment of dividends on the stock of the company, interest at the rate of six per cent. per annum upon such preferential stock before any dividends or interest whatever shall become payable out of the profits of the company upon the existing ordinary share capital: Provided, however that no such preferential stock shall be issued until the matter shall have been submitted to and received the approval of two-thirds in value of the shareholders of the said company, voting in person or by proxy, at any special or general meeting of the company.

Proviso.

CHAPTER 68.

An Act to incorporate the Ontario Sault Ste. Marie Railway Company.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the construction of a railway to connect the railways of the Province of Ontario with Sault Ste. Marie, with power to build a branch or branches to Lake Nipissing and Lake Temiscaming would be of general benefit to the Province of Ontario; and whereas a petition has been presented praying the incorporation of a company for that purpose, and it is expedient to grant the prayer of such petition; Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Incorporation.

1. James D. Edgar, H. H. Cook, M.P.P., J. M. Ferris, M.P.P., George A. Cox, Robert Jaffray, James Holden, William Gooderham, Jr., Sir William P. Howland, W. J. Copp, Æmelius Irving, and J. M. Williams, together with all such persons and corporations as shall become shareholders in the company hereby incorporated, shall be and are hereby constituted a body

body corporate and politic, by and under the name of "The Ontario Sault Ste. Marie Railway Company."

2. The said company shall have full power and authority to lay out, construct, and complete a double or single iron or steel railway of a gauge of four feet eight and one-half inches in width, from a point at or near Gravenhurst, in the district of Muskoka, or at such other point as the Directors may determine; thence extending northerly to French river, thence extending westerly and northerly, or in such way as the directors may determine, to Sault Ste. Marie, and to some point on Lake Superior near Sault Ste. Marie, in the district of Algoma, with power to build extensions southerly to connect with the railway system of Ontario in such manner as the directors may determine, and with power to build the said railway in sections as the directors may determine; also, with power to build a branch or branches to Lake Nipissing and Lake Temiscaming, and all the company's powers shall be applicable to said branches. Location of line.

3. Notwithstanding anything contained in the section of "The Railway Act of Ontario" respecting "lands and their valuation," the said company may acquire land and water-lot property for the purpose of their undertaking, in the manner provided for by the said sections, and may acquire, under the provisions in that behalf of the said Act, and hold such width of land on the sides of the railway and its branches at any point as may be needed for the erection of snow-drift fences or barriers, at a sufficient distance from the track to prevent the obstruction of the line by drifting snow, and the compensation to be paid to the owners for such lands, as also the power of the company to take possession thereof, shall, in case of difference, be ascertained and exercised in the manner provided by the said sections of the said Railway Act. Powers as to acquiring lands.

4. The capital stock of the company shall be two millions of dollars, with power to increase the same, in the manner provided in "The Railway Act of Ontario," to be divided into shares of one hundred dollars each; and the money so raised shall be applied, in the first place, to the payment of all fees, expenses and disbursements of and incidental to the passing of this Act, and the organization of the said company, and for making the surveys, plans, and estimates connected with the works hereby authorized, and the procuring of any plans and estimates heretofore made, and all the remainder of said moneys shall be applied to the making, equipping, completing and maintaining of the said railway, and to the other purposes of this Act. Capital stock.

5. The said company may receive, either from any government or from any persons or bodies, corporate, municipal or politic, who may have power to make or grant the same, boun- Aid to company.
uses,

nuses, loans or gifts of money, or securities for money, or grants of land, in aid of the construction, equipment, or maintenance of the said railway, and upon accepting such aid the said company may agree to any conditions as to running powers or traffic arrangements in favour of any other lines which may be imposed by the government granting said aid.

Provisional
directors.

6. The persons named in the first section of this Act together with five persons to be named hereafter by the Lieutenant-Governor in Council, shall be and are hereby constituted provisional directors of the said company, of whom nine shall be a quorum and shall hold office as such until the first election of directors under this Act, and shall have power forthwith to open stock books, and procure subscriptions of stock for the undertaking, and to receive payments on account of stock subscriptions, and to cause plans and surveys to be made, and to acquire any plans and surveys now existing, and to deposit in any chartered bank of Canada all moneys received by them on account of stock subscriptions, and to withdraw the same for the purposes of the undertaking and to receive for the company any grant, loan, bonus or gift made to it in aid of the undertaking, and to enter into any agreement respecting the conditions or disposition of any gift or bonus in aid of the railway, and with all such other powers as under "The Railway Act of Ontario," are vested in ordinary directors: Provided, also, that in the event of any of the persons named in the first section of this Act declining to act as provisional director, the Lieutenant-Governor in Council may, in addition to naming five directors as aforesaid, name as provisional director a person in the place of such provisional director so declining to Act.

Their powers.

7. The said directors are hereby empowered to take all necessary measures for opening the stock books for the subscription of parties desirous to become shareholders in the said company, and to determine and allot to parties subscribing for stock in the said company, the number of shares (if any) that parties so subscribing may have and hold in the capital stock aforesaid: Provided always, that no subscription in the said stock books shall create the party or parties so subscribing a shareholder or shareholders in the said company, without and until the authorization thereof by the directors of the company for the time being.

Subscriptions
for shares not
binding on
company until
ten per cent.
paid.

8. No subscription for shares in the capital of the company shall be binding on the company unless and until ten per centum of the amount subscribed has been actually paid thereon.

First general
meeting.

9. When and so soon as shares to the amount of two hundred and fifty thousand dollars in the capital stock of the said company shall have been subscribed and allotted, and the sum of

of twenty-five thousand dollars paid thereon, the provisional directors shall call a general meeting of the shareholders to the said capital stock, at the city of Toronto, for the purpose of electing directors of the said company, giving at least two weeks' notice by advertisement in the *Ontario Gazette* and in one of the daily papers published in the city of Toronto, of the time, place and purpose of said meeting.

10. At such general meeting the shareholders assembled, First election of directors. in person or by proxy, who shall have paid up ten per centum on their shares, shall choose not more than nine persons to be directors of the said company (of whom five shall be a quorum), and may also pass such rules, regulations and by-laws as may be deemed expedient: Provided they be not inconsistent with this Act and "The Railway Act of Ontario;" and provided also that, in addition to such directors, the Lieutenant-Governor in Council shall have the right, in the event of the Government granting aid to the said company, to nominate three directors to the said company; and in the event of such nomination, seven shall be a quorum.

11. No person shall be qualified to be elected as such director by the shareholders unless he be a shareholder holding Qualification of directors. at least one hundred shares of stock in the company, and unless he has paid up all calls thereon.

12. Thereafter the general annual meeting of the shareholders of the said company shall be held at such place in the city of Toronto, and on such days and at such hours as may be directed by the by-laws of the company, and public notice thereof shall be given at least fourteen days previously in the *Ontario Gazette*, and in one or more newspapers published at the city of Toronto, and special general meetings of the shareholders of the said company may be held at such places in the city of Toronto, and at such times, and in such manner, and for such purposes as may be provided by the by-laws of the company. Annual meeting.

13. For the purposes of the company the directors may issue bonds, and to secure the same and the interest thereon they may mortgage the undertaking or part thereof in the manner provided in the Railway Act of Ontario, and in this respect the provisions of the said Railway Act shall apply; and it shall be lawful for any other railway company or companies to agree for the loan of its or their credit, either by direct guarantee or traffic arrangements or otherwise, to secure the payment of the interest on said bonds or any part thereof. Issue of bonds authorized.

14. It shall be competent for the directors of the said company to issue as paid up stock any ordinary stock of the company Payment for right of way may be made in stock.

pany, and allot and pay the same for right of way, plant, rolling stock, or material of any kind, and also for the services of contractors, engineers and other persons, who may have been, are or may be engaged in and about the prosecution of the proposed undertaking.

Company may
become parties
to notes, etc.

15. The said company shall have power and authority to become parties to promissory notes and bills of exchange, for sums not less than one hundred dollars, and any such promissory note or bill made, accepted, or indorsed by the president or vice-president of the company, and countersigned by the secretary and treasurer of the said company, and under the general or special authority of a majority of a quorum of the directors, shall be binding on the said company; and every such promissory note or bill of exchange so made shall be presumed to have been made with proper authority until the contrary be shewn, and in no case shall it be necessary to have the seal of the said company affixed to such promissory note or bill of exchange; nor shall the said president, or vice-president, or the secretary and treasurer, be individually responsible on any bill or note made, accepted or indorsed by him or them on behalf of the company, provided the consideration for the said bill or note was received by the company, unless the said promissory notes or bills of exchange have been issued without the sanction and authority, either general or special, of the board of directors, as herein provided and enacted: Provided, however, that nothing in this section shall be construed to authorize the said company to issue notes or bills of exchange payable to bearer, or intended to be circulated as money, or as the notes or bills of a bank.

Calls.

16. The directors may at any time call upon the shareholders for such instalments upon each share and in such proportions as they may see fit, but no such instalment shall exceed ten per centum on the subscribed stock, and thirty days' notice of each call shall be given as prescribed by the by-laws of the company.

Agreements
with other
companies.

17. The said company shall have power to make running arrangements with any railway company which is lawfully empowered to enter into such an agreement, upon terms to be approved by two-thirds in value of the shareholders at a special general meeting to be held for that purpose; and it shall also be lawful for the said company to enter into any agreement with any other railway company whose line connects therewith, and which is lawfully authorized to enter into such an agreement for leasing or hiring any locomotives, tenders, plant, rolling stock, or other property of either or of both or any part thereof, or touching any service to be rendered by the one company to the other and the compensation therefor, if the arrangements and agreements shall be approved of by

by two-thirds in value of the shareholders voting in person or by proxy at a special general meeting to be called for that purpose, and every such agreement shall be valid and binding and shall be enforced by courts of law according to the terms and tenor thereof.

18. The said company shall at all times work and operate its railway so as to afford equal facilities for the receipt, transfer and transportation to, from, or over the same of the traffic of all other lines of railway in Canada which may connect with the railway of the said company, and the said company shall establish, levy and collect equal tolls, rates and charges in respect of the traffic received from, or to be delivered to all such other railways, and so that the same shall be received, transferred, transported and delivered, and the tolls and charges in respect of the same shall be levied and collected on terms of absolute equality and without discrimination of any sort in favour of or against the traffic of any other such railway. The word "traffic" in this section shall mean not only passengers and their baggage, goods, animals and things conveyed by railway, but also cars, trucks and vehicles of any description, adapted for running on any railway and whether loaded or unloaded, owned or leased by, or consigned to any such other connecting railway in Canada.

Equal traffic facilities to be given to all other railways.

19. Conveyances of land to the said company for the purposes of this Act may be made in the form in the schedule hereto annexed, or to the like effect, and may be registered.

Form of conveyance.

20. Whenever it shall be necessary, for the purpose of procuring sufficient lands for stations or gravel pits, or for constructing, maintaining, and using the said railway, or for opening a street to any station from any existing highway, the said company may purchase, hold, use, or enjoy such lands, and also the right of way thereto, if the same be separated from their railway, and may sell and convey the same, or parts thereof, from time to time as they may deem expedient; and may also make use of, for the purposes of the said railway, the water of any stream or water course on or near which the said railway passes, doing, however, no unnecessary damage thereto, and not impairing the usefulness of such stream or water course, and the compensation to be paid to the owners for such lands, or the use of such water, as also the powers of the said company to take possession thereof, shall, in case of difference, be ascertained and exercised in the manner provided in the sections of the "Railway Act of Ontario" respecting "lands and their valuation."

Power to take land for gravel pits, etc., and to use streams

21. The said company may also construct an electric telegraph line in connection with their railway, and for the purpose of constructing, working, and protecting the said telegraph line,

Powers to construct telegraph line.

line, the powers conferred upon telegraph companies by the Act respecting telegraph companies, being chapter one hundred and fifty one of the Revised Statutes of Ontario, are hereby conferred upon the said company.

Railway Act
to apply.

22. All the provisions of the Railway Act of Ontario except as varied by this Act, shall apply to the said company.

Commence-
ment and com-
pletion of rail-
way.

23. The railway shall be commenced within three years, and completed within six years after the passing of this Act.

SCHEDULE.

(Section 19.)

Know all men by these presents, that I (or we) [*insert the names of the vendors*] in consideration of dollars paid to me (or us) by the Ontario Sault Ste. Marie Railway Company, the receipt whereof is hereby acknowledged, do grant and convey, and I (or we) [*insert the names, of any other parties*] in consideration of dollars paid to me (or us) by the said company, the receipt whereof is hereby acknowledged, do grant or release all that certain parcel (or those certain parcels, *as the case may be*) of land [*describe the lands*] the same having been selected or laid out by the said company for the purposes of their railway, to hold with the appurtenances unto the said Ontario Sault Ste. Marie Railway Company, their successors and assigns, [*here insert any other clauses, covenants, or conditions required*] and I (or we) the wife (or wives) of the said do hereby bar my (or our) dower in the said lands, as witness my (or our) hand and seal (or hands and seals) this day of
A.D. 18 .

Signed, sealed, and delivered }
in presence of }

(L. S.)

CHAPTER 69.

An Act amalgamating the Port Dover and Lake Huron, the Stratford and Huron and the Georgian Bay and Wellington Railway Companies as the Grand Trunk, Georgian Bay and Lake Erie Railway Company.

[Assented to 4th March, 1881.]

WHEREAS the Port Dover and Lake Huron Railway Company, the Stratford and Huron Railway Company, and the Georgian Bay and Wellington Railway Company, have, by their petition, prayed for an Act amalgamating their companies into one company and corporation, and for the grant to such company and corporation of the powers and privileges hereinafter mentioned; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In the interpretation of this Act, unless the context shall require a different interpretation, the words "the company" shall mean the company hereby incorporated; the words "the companies hereby amalgamated" shall mean the Port Dover and Lake Huron, the Stratford and Huron, and the Georgian Bay and Wellington Railway Companies, and the words "company hereby amalgamated" shall mean such one of the last named railway companies as the context may point out. Interpretation.

2. From and after the passing of this Act, the shareholders of the companies hereby amalgamated, together with such persons and corporations as shall, under the provisions of this Act, become shareholders in the company are declared to be a body corporate and politic, under the name of the Grand Trunk, Georgian Bay and Lake Erie Railway Company. Incorporation.

3. All the rights, claims, property, estate and effects of each of the companies hereby amalgamated, are hereby vested in the company, subject to the provisions of this Act. Rights etc. of amalgamated companies vested in the company.

4. The assets of each company hereby amalgamated, including a share of any future assets of the company, which may have been earned by that portion of the line of the company hereby amalgamated in the proportion the length of the said portion of the line of the company hereby amalgamated, and which is then completed, and against which any lien or claim exists or may exist, bears to the whole length of the line of the company so far as completed, notwithstanding Assets of each company liable for existing claims against it. Proviso.

Proviso.

Proviso.

standing they are vested in the company by this Act, shall continue liable to satisfy all liens and claims against that company hereby amalgamated which was originally liable therefor or thereto, and shall be applied in such satisfaction, but no other assets of the company shall be applied, nor shall the assets of one company hereby amalgamated be so applied in satisfaction of any lien and claim against the other: Provided that all suits and proceedings to enforce any such lien or claim shall be brought and taken against the company; and all actions, suits and proceedings, by or against any company hereby amalgamated, and pending at the time of the passing of this Act, shall be continued by or against the company: Provided also, that the rights of any person or party having any special lien, charge or privileged claim upon the lands, buildings, tolls, or other property of any of the companies hereby amalgamated, or upon any part thereof, shall not be affected, save that they and all the liens and claims mentioned in this section shall be subject to the provisions contained in this Act regarding the issue of bonds by the company.

Company authorized to maintain and complete lines of amalgamated companies.

5. The company shall be and is hereby authorized and empowered to maintain and complete the lines of railway already constructed or in the course of construction by any of the companies hereby amalgamated, with all the works, stations, and equipments thereof; and to construct and maintain extensions of such lines of railway, with all necessary sidings, works, stations, and equipments thereof, from the town of Palmerston to the village of Wiarton and the town of Owen Sound, or either of such places, and from the village of Wiarton to any point on the northerly boundary of the township of St. Edmund, in the county of Bruce; and from some point upon or near the easterly or southerly shore of the Great Manitoulin Island, to some point or points in the Great Manitoulin Island, and in any island in Lake Huron, lying between the Great Manitoulin Island and the State of Michigan, and from the town of Durham to the town of Owen Sound, or to some other point or points on the Georgian Bay, or to a junction with the Toronto, Grey and Bruce Railway; and a branch from some point in the line of railway between the town of Palmerston and the village of Wiarton to the town of Walkerton; and on all or any part or parts of the said line of railway to make, lay and maintain a single or double track.

Gauge.

6. The said railway may be of any gauge.

Board of Directors.

7. From and after the passing of this Act, until the first election of directors thereunder, David Tisdale, Henry Parker, of Woodstock, Gilbert Moore, Samuel Street Fuller, Thomas Jehu Clarke, Ephraim Cook, George Jackson, M.P., James McMullen, Robert T. Livingstone and John Jackson, shall be the directors, and constitute the board of directors.

8.

8. The capital stock of the company shall be four hundred and eighty-three thousand two hundred and fifty dollars, being an amount equal to the combined capital stock of all the companies hereby amalgamated, divided into nine thousand six hundred and sixty-five shares of fifty dollars each, with power to increase the same in the manner provided, by the Railway Act of Ontario, and each holder of stock in either of the companies hereby amalgamated shall be a shareholder in the company to the amount of stock he held in either of the companies hereby amalgamated.

Capital of the company \$483,250.

9. The directors hereinbefore appointed shall, within six months from the time this Act shall take effect, call a general meeting of the shareholders of the company, for the purpose of electing directors of the company, and at such meeting each director hereinbefore appointed shall be eligible to be elected.

First meeting for election of directors.

10. Notice of the time and place of holding such first and all subsequent general and annual meetings of shareholders shall be given by publication, once in the *Ontario Gazette*, at least two weeks previous to the day of meeting, and once a week in a daily newspaper published in Toronto during the two weeks preceding the week in which the meeting is to be held, and the meeting shall be held at such place, and on such day and hour, as the directors shall from time to time appoint and name in the notice calling the meeting.

Time and place and notice of meeting.

11. At such general meeting the shareholders of the company, assembled with such proxies as may be present, shall choose seven persons to be the directors of the company, any four of whom shall form a quorum.

Election of Directors.

12. No person shall be qualified to be elected as a director unless he be a shareholder, holding at least ten shares of stock in the company.

Qualification of Directors.

13. Aliens as well as British subjects, and whether resident in this Province or elsewhere, may be shareholders in the company, and all such shareholders shall be entitled to vote on their shares equally with British subjects, and shall also be eligible to office as directors in the company.

Rights of aliens.

14. Conveyances of lands to the company, for the purposes of this Act, may be in the form set out in the schedule (schedule A) hereunder written, or to the like effect, and such conveyances shall be registered by duplicates thereof, in such manner and upon such proof of execution as is required under the registry laws of Ontario, and no registrar shall be entitled to demand more than seventy-five cents for registering the same, including all entries and certificates thereof, and certificate indorsed on the duplicate thereof.

Form etc. of Conveyances.

Aid from municipalities.

15. Any municipality, or any portion of a township municipality, which may be interested in securing the construction of the said railway, or through any part of which, or near which, the railway or works of the said company shall pass or be situate, may aid the said company by giving money or debentures, by way of bonus, gift or loan, or by the guarantee of the municipal corporation, under and subject to the provisions hereinafter contained: Provided always that no such aid shall be given except after the passing of a by-law for the purpose and the adoption of such by-law by the qualified rate-payers of the municipality, or portion of municipality (as the case may be), in accordance with and as provided by law in respect to granting aid by way of bonuses to railways.

Proviso.

Provisions as to bonus by-laws.

16. Such by-law shall be submitted by the municipal council to the vote of the ratepayers in manner following, namely:—

(1) The proper petition shall first be presented to the council, expressing the desire to aid the railway, and stating in what way and for what amount; and the council shall, within six weeks after the receipt of such petition by the clerk of the municipality, introduce a by-law to the effect petitioned for, and submit the same for the approval of the qualified voters;

(2) In the case of a county municipality, the petition shall be that of a majority of the reeves and deputy-reeves, or of fifty resident freeholders in each of the minor municipalities of the county who are qualified voters under the Municipal Act;

(3) In the case of other municipalities, the petition shall be that of a majority of the council thereof, or of fifty resident freeholders, being duly qualified voters as aforesaid;

(4) In the case of the section of a township municipality, the petition is to be presented to the council, defining the section by metes and bounds, or lots and concessions, and shall be that of a majority of the council of such township municipality, or of fifty resident freeholders in such section of the municipality, being duly qualified voters as aforesaid.

Provisions for referring to arbitration disputes as to bonus by-laws.

17. In case of aid from a county municipality, fifty resident freeholders of the county may petition the county council against submitting the said by-law upon the ground that certain minor municipalities or portions thereof comprised in the said by-law would be injuriously affected thereby, or upon any other ground ought not to be included therein, and upon deposit by the petitioners with the treasurer of the county of a sum sufficient to defray the expense of such reference, the said council shall forthwith refer the said petition to three arbitrators, one being the judge of the county court, one being the registrar of the county or of the riding in which the county town is situate, and one being an engineer appointed by the Commissioner

Commissioner of the Department of Public Works for Ontario, who shall have power to confirm or amend the said by-law, by excluding any minor municipality or any section thereof therefrom; and the decision of any two of them shall be final; and the by-law so confirmed or amended shall thereupon, at the option of the railway company, be submitted by the council to the duly qualified voters, and in case the by-law is confirmed by the arbitrators, the expenses of the reference shall be borne by the petitioners against the same, but if amended, then by the railway company or the county, as the arbitrators may order.

18. The term "minor municipality" shall be construed to mean any town not separate from the municipal county, township or incorporated village situate in the county municipality. "Minor municipality," meaning of.

19. Such by-law shall in each instance provide:—

By-law, what to contain.

(1) For raising the amount petitioned for in the municipality or portion of the township municipality (as the case may be), mentioned in the petition, by the issue of debentures of the county or minor municipality respectively, and shall also provide for the delivery of the said debentures or the application of the amount to be raised thereby, as may be expressed in the said by-law;

(2) For assessing and levying upon all ratable property lying within the municipality or portion of the township municipality defined in said by-law (as the case may be), an annual special rate sufficient to include a sinking fund for the repayment of the said debentures within twenty years, with interest thereon, payable yearly or half-yearly, which debentures the respective municipal councils, warden, mayors, reeves, and other officers thereof, are hereby authorized to execute and issue in such cases respectively.

20. In case the by-law submitted be approved of and carried, in accordance with the provisions of the law in that behalf, then within four weeks after the date of such voting, the municipal council which submitted the same shall read the said by-law a third time and pass the same. If by-law carried, council to pass same;

21. Within one month after the passing of such a by-law, the said council and the warden, reeve, or other officers thereof shall issue or dispose of the debentures necessary to raise the sum mentioned in such by-law and otherwise act according to the terms thereof. And issue debentures.

22. All by-laws to be submitted to such vote for granting bonuses, loans, or guarantees to the company not requiring the levying of a greater annual rate for all purposes exclusive of the dollar. Assessment not to exceed three cents in the dollar.
school

school rates than three cents in the dollar of the ratable property affected thereby, shall be valid, although the amount of the annual rate to be levied in pursuance thereof shall exceed two cents in the dollar.

Exemption
from taxation.

23. It shall further be lawful for the corporation of any municipality, in or through any part of which the railway of the company passes, or is situate, by by-laws, specially passed for that purpose, to exempt the company and its property within such municipality, either in whole or in part, from municipal assessment or taxation, or by fixing the assessable value of such property, or to agree to a certain sum per annum or otherwise, in gross or by way of commutation or composition for payment, or in lieu of all or any municipal rates or assessments to be imposed by such municipal corporation, and for such term of years as such municipal corporation may deem expedient; and any such by-laws shall not be repealed unless in conformity with any condition contained in such by-law.

Municipality
may direct
where its aid
shall be
expended.

24. Whenever any municipality or portion of a township municipality shall aid, loan, guarantee, or give money or bonds, by way of a bonus to aid the making, equipment and completion of said railway, it shall be lawful for the company to enter into a valid agreement with such municipality, binding the company to expend the whole of such aid so given upon works of construction within the limits of the municipality granting the same, or upon such other portions of the said line of railway as the said municipality may see fit to direct; but such direction once given shall not be withdrawn, or in any way qualified.

Council may
consent that
it outemay be
varied.

25. The council of any municipality, or of any minor municipality, which has aided or may aid the said railway by granting a bonus thereto, may, on the application of the company from time to time, consent to the conditions of the agreements made with such municipality as to the route of the railway mentioned therein, being varied to such extent and in such manner as an actual survey of the line, may render necessary or expedient, and to the extent of such alterations, the original agreements may be varied accordingly: Provided always that nothing herein contained shall be construed as authorizing the council to sanction any deviation from the line originally agreed on beyond what may be found necessary or expedient from natural or engineering difficulties; and provided also that it shall be lawful for the company in any such case to enter into an agreement with such municipality for the gravelling or macadamizing any road leading to the said railway. In case the council of a municipality or minor municipality cannot agree with the company as to what deviation should be made, owing to such natural or engineering difficulties, the said council and the company respectively shall each appoint an arbitrator, and such two arbitrators and the county judge, or some person

Proviso.

In case of
dispute about
deviation of
route arbitra-
tion provided
for.

person appointed by him to act as arbitrator in his stead, shall finally determine the matter, and the direction given by any municipality granting aid to the company, under the next preceding section, shall apply so far as practicable to the route when varied under this section; and in case of dispute between the company and such municipality in reference to the application of such direction to the route when varied as aforesaid, the same shall be determined by arbitration in like manner, as above provided, in regard to the variation of the route of the said railway.

26. The municipal council of any and every county through or near any part of which the line of the said railway shall run, are hereby authorized and empowered by by-law to guarantee the payment of the principal and interest, as they respectively become due, of any debentures issued, or which may hereafter be issued by any township, town or incorporated village in such county to aid the construction of the said railway, and it shall not be necessary to submit any such by-law to the vote or approval of the ratepayers.

County Council may guarantee payment of debentures of minor municipalities.

27. Whenever any municipality or portion of a township municipality shall grant a bonus or loan to assist the company in the making, equipping and completion of the said railway the debentures therefor, or bonds, shall, within six months after passing of the by-law authorizing the same, be delivered to three trustees, to be named, one by the Lieutenant-Governor in Council, one by the company, and one by the heads of municipalities granting such bonuses, or the majority of them who shall attend a meeting for that purpose, to be held at such time and place as the company may appoint for that purpose, notice of which shall be sent to each reeve, mayor, or warden of the municipalities respectively, by mail, at least fourteen days before the day appointed, all the trustees to be residents of the Province of Ontario: Provided that if such Reeves, mayors, or wardens shall refuse or neglect to name such trustee, or if the Lieutenant-Governor in Council shall refuse or neglect to name said trustee within one month after notice, in writing, to him of the appointment of the other trustees, the company shall be at liberty to name such other trustee or other trustees. Any of the said trustees may be removed and a new trustee appointed in his place at any time by the Lieutenant-Governor in Council, with the consent of the company; and in case any trustee dies or resigns his trust, or goes to live out of Ontario, or otherwise becomes incapable to act, his trusteeship shall become vacant and a new trustee may be appointed by the Lieutenant-Governor in Council, with the consent of the company.

Debentures may be held by trustees.

Trustees how appointed.

Removal, and appointment of new trustees.

28. The said trustees shall receive the said debentures or bonds in trust, firstly, under the direction of the company, but subject to the conditions of the by-law in relation thereto as to

Trusts on which debentures shall be held.

time

time or manner, to convert the same into money; secondly, to deposit the amount realized from the sale in such one or more of the chartered banks having an office in the Province of Ontario, as the company shall direct in the name of the Grand Trunk, Georgian Bay and Lake Erie Railway Company, and Municipal Trust Account, and to pay the same out to the company from time to time on the certificate of the chief engineer of the said railway, in the form set out in schedule "B," hereto, or to the like effect, setting out the portion of the railway to which the money to be paid out is to be applied, and that the sum so certified for is in pursuance of the terms and conditions of the by-law, and such certificate shall be attached to the cheques to be drawn by the said trustees, and such engineer shall not wrongfully grant any such certificate under penalty of one hundred dollars, recoverable in any county court by any person who may sue therefor.

Acts of two trustees to be binding.

29. The acts of any two of such trustees shall be as valid and binding as if the three had agreed.

Trustees already appointed to continue.

30. Provided always that the trustees already appointed to receive such debentures and bonds, under any Act relating to any of the companies hereby amalgamated, shall continue to exercise all the powers with regard to receiving, holding and dealing with such debentures and bonds already issued, as are conferred by the said Acts, and under and subject to the trusts thereby directed.

Power to trustees to pay for rails and track supplies.

31. Whenever the company shall have purchased rails, fish-plates, bolts and nuts, and spikes, to the value of five thousand dollars, and the same shall have been placed in or upon its lands, then, and so often as the same to the value aforesaid shall have been so placed as aforesaid, the trustees, by the statutes in that behalf appointed to receive municipal debentures in aid of the company, who shall then fill the said office of trustees, or a majority of them, shall, within five days after notification in writing, that such rails, fish-plates, bolts and nuts, and spikes have been so placed, accompanied by a certificate of the engineer for the time being of the company, stating the quantity, description and value thereof, pay to the company the amount at which the value is so stated in the said certificate, and charge the same against any portion of the fund in their hands, for what purpose or on what terms soever it may have been so placed therein, and the value of the said rails, fish-plates, bolts and nuts, and spikes, shall be stated by the said engineer at the price actually paid therefor.

Penalty of false certificate.

32. If the said engineer shall knowingly or wilfully certify to any false or incorrect statement of the quantity, description or value of the said rails, fish-plates, bolts and nuts, and spikes, he shall for each such false or incorrect statement, in addition

addition to any other punishment by law imposed, be liable to a penalty of five hundred dollars.

33. Forthwith upon each payment so made by the said trustees, under the thirty-first section of this act, the said rails, fish-plates, bolts, nuts and spikes, in respect whereof the said payments shall have been made, shall vest in and become the property of the said trustees, to be laid, used and employed upon the railway, and its construction within the limits of the respective municipality or municipalities, wherein according to the terms of the respective by-laws granting aid to the company, the money paid by the said trustees for the purchase of such rails, fish-plates, bolts, nuts and spikes, is or shall be directed or agreed to be expended, and not otherwise, or elsewhere: Provided always that the said trustees shall not make any such payments, if by doing so the amount or percentage reserved by the by-laws of any municipality for payment on the completion of the railway to the village of Wiarton or the town of Owen Sound, should in any way be impaired or diminished.

Upon payment rails and track supplies to vest in the trustees.

Proviso.

34. Should there be any lien, charge, or incumbrance affecting the said rails, fish-plates, bolts and nuts, and spikes, the same shall be paid by the said trustees out of the fund in their hands, and to which payment the holder of the said lien, charge or incumbrance, shall be entitled in the place and stead of, and in substitution for, his said lien, charge or incumbrance, and such payment by the said trustees shall, to the amount or extent thereof, be considered in all respects as a payment to the company, under the thirty-first section of this Act.

Trustees to pay off incumbrances.

35. The company shall have power and authority:—

(1) To make and issue first mortgage bonds, and also second or income mortgage bonds, for the purpose of redeeming outstanding bonds of the Port Dover and Lake Huron and the Stratford and Huron Railway Companies, and for the general purposes of the company as the same may from time to time be required, in such denominations, payable either in currency or in sterling, and at such place or places within this Province or without, and at such time or times, and bearing such rate of interest, and each bond for such an amount as may be deemed advisable, and for the purpose of securing the due payment of any issue thereof, and the interest thereon, to mortgage to a trustee or trustees such portion of the line of railway and of the undertaking, and such of the lands, tolls, revenues and other property of the company as may be mentioned in such mortgage; and such mortgage bonds and all coupons and interest warrants thereon shall be payable to the bearer, and be transferable by delivery;

Power to make and issue first and second mortgage bonds.

May mortgage any portion of line to secure bonds.

Bond issue not to exceed £1,600 sterling per mile.

(2) Provided that such issue or issues of bonds shall not in the whole exceed the sum of one thousand six hundred pounds sterling, or its equivalent in currency per mile for each mile in length of the railway constructed, and hereby authorized to be constructed; nor shall any such mortgage or mortgages be made to secure in the whole a greater sum than one thousand six hundred pounds sterling, or its equivalent in currency per mile for each mile in length of the portion of the line of railway mentioned therein;

Priorities of mortgages securing first and second mortgage bonds.

(3) Every such mortgage to secure payment of first mortgage bonds shall be a lien and charge upon such portion of the line of railway, and of the undertaking, and such of the lands, tolls, revenues, and other property of the company, whether then existing or to be thereafter acquired, as may be mentioned therein, in preference and priority to all other charges thereon, and every such mortgage for securing payment of second mortgage or income bonds shall be a lien and charge upon such portion of the line of railway, and of the undertaking and such of the lands, tolls, revenues and other property of the company, whether then existing or to be thereafter acquired, as may be mentioned therein, next after and subject only to the mortgage or mortgages securing first mortgage bonds; and no more than one mortgage shall be made over the same portion of the line, undertaking, lands, tolls, revenues or other property of the company to secure first mortgage bonds.

Only one mortgage over same portion of line to secure first mortgage bonds.

Power to redeem P. D. and L. H., and S. and H. R. bonds by consent of two-thirds of holders thereof.

36. The company may redeem all outstanding bonds of the Port Dover and Lake Huron and the Stratford and Huron Railway companies by providing for the holders thereof bonds of the company to such an amount and of such class or classes as may be agreed upon between the company and two-thirds of each class of the bondholders of the Port Dover and Lake Huron Railway Company, and of the holders of the bonds of the Stratford and Huron Railway Company.

Notice to be given in *Ontario Gazette* when new bonds ready.

37. After the bonds of the company are made and ready for delivery, according to the terms of such agreement, the secretary of the company shall publish a notice to that effect in the *Ontario Gazette*, and upon publication of such notice the holders of all outstanding bonds of the Port Dover and Lake Huron, and the Stratford and Huron Railway Companies, shall forthwith become entitled to such of the said bonds of the company as the said agreement shall appropriate to them, and the outstanding bonds aforesaid, and all coupons for interest thereon, shall become null and void.

Construction by five mile sections.

38. The company is hereby authorized and empowered to take and make the surveys and levels of the land through which the railway of the company is to pass, together with the map or plan thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, so far as then

then ascertained, and also the book of reference for the railway, and to deposit the same as required by the clause of the Railway Act of Ontario, with respect to "plans and surveys," by sections or portions less than the whole length of the said railway authorized, of such length as the company may from time to time see fit, so that no one of such sections or portions shall be less than five miles in length; and upon such deposit, as aforesaid, of the map or plan, and book of reference, of any and each of such sections or portions of the said railway, all and every of the clauses of the said Railway Act applied to, included in, or incorporated with this Act, shall apply and extend to any and each of such sections or portions of the said railway, as fully and effectually as if the surveys and levels had been taken and made, of the lands through which the whole of the said railway is to pass, together with the map or plan of the whole thereof, and of its whole course and direction, and of the lands intended to be passed over and taken, and the book of reference, for the whole of the said railway, had been taken, made, examined, certified and deposited, according to the said clauses of the said railway Act, with respect to "plans and surveys."

39. For the purpose of connecting any city, town, village, manufactory or manufactories, mine or mines, or any quarry or quarries of stone or slate, or any well or spring with the main line of the railway of the company, or with any branch thereof, or with any railway worked or leased by the company, and for the purpose of giving increased facilities to business, or for the purpose of transporting the products of any such manufactory, mine, quarry, well or spring, it shall be lawful for the company to build, make and construct and to work and use all sidings, switches or branch lines of railway, not to exceed in any one case six miles in length: Provided always, that the company shall not proceed to locate or build any branch line of more than one quarter of a mile in length under this section of this Act, until public notice shall have been given for six weeks in some newspaper published in the county or counties through or in which such branch line is to be made; that it is the intention of the Company to apply to the Lieutenant-Governor in Council to sanction the building of such branch line and to appropriate the necessary lands for that purpose under the compulsory powers vested in the company by this Act or by any other Act in its behalf; nor unless the company shall, prior to the first publication of such notice, have deposited in the registry office of any city, county, or part of a county in which the line or any part thereof is to be constructed the maps and plans indicating the location of the line; nor until the company shall have submitted the same to, and such maps and plans shall have been approved by, the Lieutenant-Governor in Council after the expiration of the notice, and provided further that the order of the Lieutenant-Governor in Council approving the said maps and

Branch lines
and sidings.

Notice to be
given when
branch exceeds
one quarter
of a mile.

Approval by
Lieut.-
Governor.

Powers conferred by this Act and Railway Act to apply.

and plans shall limit the time, not exceeding two years from the date of such order, within which the company may construct such branch line. For any and every such purpose the company shall have and may exercise all the powers given it with respect to its main line by this Act, and the Railway Act of Ontario, and each and all provisions of the said Acts which are applicable to such main line shall extend and apply to every such siding, switch or branch line of Railway.

Powers as to promissory notes and bills of exchange.

40. The company shall have power and authority to become parties to promissory notes and bills of exchange for sums of not less than one hundred dollars, and any such promissory note made or indorsed by the president or vice-president of the company, and countersigned by the secretary and treasurer of the company, and under the authority of a quorum of the directors, shall be binding on the company, and every such promissory note or bill of exchange so made shall be presumed to have been made with proper authority until the contrary be shewn, and in no case shall it be necessary to have the seal of the company affixed to such promissory note: Provided, however, that nothing in this section shall be construed to authorize the company to issue a note or bill of exchange payable to bearer or intended to be circulated as money or as the notes or bills of a bank.

Proviso.

Company may purchase additional lands.

41. Whenever it shall be necessary for the purpose of procuring sufficient lands for stations or gravel-pits, for constructing, maintaining, and using the said railway, and in case by purchasing the whole of any lot or parcel of land over which the railway is to run, the company can obtain the same at a more reasonable price or to greater advantage than by purchasing the railway line only, the company may purchase hold, use and enjoy such lands and also the right of way thereto, if the same be separated from their railway, and sell and convey the same or part thereof from time to time as they may deem expedient.

Power to take material for construction or maintenance.

42. When stone, gravel, earth, or sand is or are required for the construction or maintenance of said railway or any part thereof, the company may, in case it cannot agree with the owner of the land on which the same are situate, for the purchase thereof, cause a provincial land surveyor to make a map and description of the property so required and they shall serve a copy thereof with their notice of arbitration as in the case of acquiring the right of way, and the notice of the arbitration, the award and the tender of the compensation shall have the same effect as in the case of arbitration for the right of way, and all the provisions of the Railway Act of Ontario, as varied and modified by the special Acts relating to the company, as to the service of the said notice of arbitration, compensation, deeds, payment of money into court, the right to sell, the right to convey and the parties from whom lands may be taken or who may

may sell, shall apply to the subject matter of this section, and to the obtaining materials as aforesaid, and such proceedings may be had by the company, either for the right to the fee simple in the land from which said materials shall be taken or for the right to take materials for any time they shall think necessary; the notice of arbitration in case arbitration is resorted to, to state the interest required.

43. When said gravel, stone, earth or sand shall be taken under the preceding sections of this Act, at a distance from the line of the railway, the company may lay down the necessary sidings and tracks over any lands which may intervene between the railway and the lands on which such materials shall be found, whatever the distance may be, and all the provisions of the Railway Act of Ontario, and of the special Acts relating to the company, except such as relate to filing plans and publications of notice, shall apply and may be used and exercised to obtain the right of way from the railway to the land on which materials are situated, and such right may be so acquired for a term of years or permanently as the company may think proper and the powers in this and the preceding sections may at all times be exercised and used in all respects after the railway is constructed for the purpose of repairing and maintaining the said railway;

Power to lay tracks to where materials are taken.

(2) In estimating the damage for the taking of gravel, stone, earth or sand, subsection eight of section twenty of the Railway Act of Ontario shall not apply.

44. The company is hereby authorized and empowered before bonds of the Company have been issued under the provisions of this Act, if at any general meeting of the shareholders of the company and the holders of the bonds of the Port Dover and Lake Huron Railway Company and of the Stratford and Huron Railway Company, and after the issue of bonds of the Company, if at any general meeting of the shareholders of the company, either meeting being so called for that purpose, published and notified as prescribed by the provisions of this Act relating to notices of meetings of shareholders, the majority in value of the votes of the members of such meeting present in person or by proxy consent thereto, to enter into agreements with any other railway company or companies which is or are lawfully empowered to enter into such agreements for building or leasing or equipment and maintenance of the said railway or any part thereof, or the use thereof at any time or times, or for any period to or by such other company or companies, or for leasing or hiring from such other company any railway or part thereof or the use thereof, or for the leasing or hiring any locomotives, tenders, rolling stock or moveable property, and generally to make any agreement or agreements with any such other company touching the use by one or the other or by both companies of

Company may enter into agreement with other companies touching the use of the road etc.

of the railway or moveable property of either, or of both or any part thereof, or touching any service to be rendered by the one company to the other, and the compensation therefor, and such other railway company as well as any other corporation may agree upon any terms, they may mutually consent to for the loan of its credit to, or may subscribe to or become the owner of the stock of the railway company hereby created in like manner and with the like rights as individuals, but in so far only as the powers hereby conferred, may be construed to have reference to any act, deed, matter or thing to be done, executed, fulfilled or performed within the limits of the Province of Ontario; and any such agreement shall be valid and binding, and shall be enforced by courts of law, according to the terms and tenor thereof; and any company or individual accepting or executing such lease shall be and is empowered to exercise all the rights and privileges by this Act conferred.

Municipalities
may allow
company to
lay its track
on highways.

45. It shall and may be lawful for any municipality through which the said railway passes and having jurisdiction in the premises, to pass a by-law or by-laws empowering the company to make their road and lay their rails along any of the highways within such municipality, and whether or not the same be in the possession or under the control of any joint stock company, and if such highway be either in the possession or under the control of any joint stock company, then, with the assent of such company, and it shall be lawful for the company to enter into and perform any such agreements as they may from time to time deem expedient, with any municipality, corporation or person for the construction or for the maintenance and repair of gravel or other public roads leading to the said railway.

Power to
purchase
and hold
harbours,
etc.

46. It shall and may be lawful for the company at any point where the railway or any branch thereof approaches within two miles of any navigable waters, to purchase and hold as its own absolute property, harbours with their appurtenances and franchises, wharves, piers, docks, water lots and lands; and upon the said water lots and lands and in and over the waters adjoining the same to build and erect elevators, storehouses, warehouses and engine houses, sheds, wharves, docks, piers and other erections for the use of the company and the steam and other vessels owned, worked or controlled by the company and any other steam or other vessels; and to collect wharfage and storage charges for the use of the same, and also to erect, build, repair and maintain all moles, piers, wharves and docks necessary and proper for the protection of such harbours and for the accommodation and convenience of vessels entering, leaving, lying, loading and unloading within the same; and to dredge, deepen and enlarge such harbours, and the said harbours, wharves, piers and docks, water lots, lands, elevators, storehouses, warehouses, engine houses,

houses, sheds and other erections, or any thereof, or any portions thereof in its discretion to sell, lease or convey.

47. It shall and may be lawful for the company to purchase, build, complete, fit out and charter, sell and dispose of, work and control, and keep in repair steam or other vessels, from time to time to ply on lakes, rivers and canals of this Province, in connection with the said railway; and also to make arrangements and agreements with steamboat and vessel proprietors, by chartering or otherwise, to ply on the said lakes, rivers and canals in connection with the said railway.

Power to purchase and work vessels in connection with the Railway.

48. For the purpose of constructing, working and protecting the telegraph lines to be constructed by the company on their line of railway, the powers conferred on telegraph companies by the Acts respecting electric telegraph companies, are hereby conferred upon the company, and the other provisions of the said Acts for the working and protection of telegraph lines shall apply to any such telegraph lines constructed by the company.

Telegraph lines.

49. The company may, from time to time, for advances of money to be made thereon, mortgage or pledge any bonds, debentures or mortgage securities, which, under the provisions of this Act, can be issued for the construction of the said Railway and its branches, or any of them.

Power to pledge bonds.

50. It shall be lawful for the directors to enter into a contract, or contracts, with any individual, or association of individuals, for the construction or equipment of the line, or any portion thereof, including or excluding the purchase of the right of way, and to pay therefor, either in the whole or in part, either in cash or bonds or in paid up stock; Provided that no such contract shall be of any force or validity till approved of by a majority of the shareholders, present in person or by proxy, at a meeting specially convened for considering the same.

Power to construct or equip line by contract.

51. Any municipality through which the said railway may pass, is empowered to grant, by way of gift to the company, any lands belonging to such municipality which may be required for right of way, station grounds, or other purposes connected with the running or traffic of the said Railway, and the company shall have power to accept gifts of land from any Government or any person or body politic or corporate.

Municipalities may make gifts of land for purposes of railway.

52. The company shall have the right, on and after the first day of November in each year, to enter into and upon any lands of Her Majesty, or into or upon any lands of any corporation or person whatsoever lying along the route or line of said railway, and to erect and maintain snow fences thereon, subject to the payment of such damages (if any) as may be hereafter

Power to erect snow fences.

hereafter established, in the manner provided by law, in respect of such railway to have been actually suffered: Provided always that any such snow fences so erected shall be removed on or before the first day of April following.

**Lien of North
Norwich
preserved.**

53. Nothing in this Act contained shall impair or affect the special lien of the corporation of the township of North Norwich, under the twenty-sixth section of the Act passed in the thirty-seventh year of the reign of Her Majesty Queen Victoria, and chaptered fifty-seven.

**Time for
completion
extended, in
default certain
power con-
tinued.**

54. The railway of the company shall be completed within seven years after the passing of this Act, but the failure of the company to complete or to finish and put in operation any part of the line of railway it has been authorized or empowered to construct within the time or times now or hereafter limited for such purpose, shall not operate as a forfeiture of its charter, and notwithstanding such failure the corporate existence and powers of the company shall continue, except in so far as it relates to such portion of the line of the railway authorized as shall be unfinished within the time limited, or which shall be limited for that purpose: Provided always that the time for completing the road to the village of Wiarton shall not be extended beyond the period of two years from the passing of this Act.

**Inconsistent
enactments
repealed.**

55. All Acts relating to any of the Companies hereby amalgamated, in so far as they are inconsistent with this Act, are hereby repealed, and this Act shall be construed and considered as a consolidation of all the powers, privileges and rights of each of the companies hereby amalgamated, and an investment of the company therewith, so that however any powers, privileges and rights of either of the companies hereby amalgamated, and not inconsistent with this Act, even though not specially set out or referred to in this Act, shall be held, exercised and enjoyed by the company as if specially conferred hereby.

**Meetings of the
proprietors of
the different
lines amal-
gamated to be
called for
adoption of
Act.**

56. On or before the first day of August, A.D. 1881, the directors of the Georgian Bay and Wellington Railway Company shall call a general meeting of the shareholders of that company and the directors of the Port Dover and Lake Huron and of the Stratford and Huron Railway Companies shall, respectively, call a general meeting of the shareholders and bondholders of their respective companies, for the purpose of considering and, if approved, adopting the provisions of this Act; and, if, at each meeting the majority in value of such shareholders and bondholders present, in person or by proxy, resolves to adopt its provisions, the secretary of each company shall draw up and sign a certificate of the passing of such resolution by the meeting, affecting his company, which shall also be signed by the chairman of the meeting, and be forwarded to the Provincial Secretary,

Secretary, who, on receipt thereof, shall publish in the *Ontario Gazette* a notice that the provisions of this section have been complied with; and forthwith upon the publication of such notice, but not until then, the provisions of this Act preceding this section shall take effect and come into force and operation.

Notice to be published on adoption of Act to bring it into effect.

57. The directors of each company shall call the meeting of shareholders, or of shareholders and bondholders of their company in the preceding section mentioned, in the manner provided by law for calling general meetings of shareholders of their company; and the notice calling each such meeting shall state particularly that such meeting is called for the purpose of considering and, if approved, adopting the provisions of this Act.

Manner of calling meetings in preceding section mentioned.

58. The right of the company (or of the Stratford and Huron Railway Company, in case the proposed amalgamation is never carried into effect) to receive the debentures authorized by any by-law heretofore granting aid to the Stratford and Huron Railway Company, or their proceeds shall not be impaired by reason of failure to commence or complete the railway, or the portion thereof, or the branches, sidings or switches in such by-law mentioned, within the period prescribed in such by-law, or any agreement made thereunder for commencement or completion: Provided the company or the Stratford and Huron Railway Company commence the work in such by-law and agreement mentioned within one year, and complete the same within two years from the passing of this Act.

Right of company to debentures confirmed on commencement and completion within certain

59. Except as to the provisions contained in this Act relating to the issue of bonds by the company and the provisions contained in the next preceding section, nothing in this Act contained shall alter or impair the force and effect of any agreement heretofore made or entered into and now existing between the said Stratford and Huron Railway Company or the said Port Dover and Lake Huron Railway Company, or the Georgian Bay and Wellington Railway Company and any of the municipalities which have contributed by way of bonus towards the construction of the said railways or either of them, but said agreements shall continue in all respects to be and are hereby declared binding upon the said railway companies, respectively, and upon the company: Provided always that in case of any such agreements or parts thereof being inconsistent or conflicting with each other, and of differences arising in respect thereof between the company and any or either of such municipalities, all such matters of difference shall from time to time be referred to the arbitrament of a majority of arbitrators, of whom one shall be named by the company and two by the municipalities interested, each party naming one and two named by any judge of either of the Superior Courts of Law or Equity, and that such award shall be enforceable in like manner as awards made under the Railway Act of Ontario or as may be ordered by any decree or rule of court.

Agreements with municipalities not affected.

Proviso.

SCHEDULE

SCHEDULE "A."

(SECTION 14.)

Know all men by these presents that I (or we) (*insert the name or names of the vendors*), in consideration of

dollars paid to me (or us) by the Grand Trunk, Georgian Bay and Lake Erie Railway Company, the receipt whereof is hereby acknowledged, do grant and convey, and I (or we) (*insert the name of any other party or parties*), in consideration of

paid to me (or us) by the said Company, the receipt whereof is hereby acknowledged, do grant and release all that certain parcel (or those certain parcels, *as the case may be*) of land (*describe the land*), the same having been selected and laid out by the said Company for the purposes of its Railway, to hold with the appurtenances unto the said Grand Trunk, Georgian Bay and Lake Erie Railway Company, its successors and assigns (*here insert any other clauses, conditions, and covenants required*), and I (or we), wife (or wives) of the said

, do hereby bar my (or our) dower in the said lands. As witness my (or our) hand and seal (or hands and seals), this day of

one thousand eight hundred and eighty

Signed, sealed and delivered
in presence of

[L.S.]

SCHEDULE "B."

(SECTION 28.)

Chief Engineer's Certificate.

THE GRAND TRUNK, GEORGIAN BAY AND
LAKE ERIE RAILWAY COMPANY'S OFFICE.

Engineering Department, A.D.
one thousand eight hundred and
eighty

No.

Certificates to be attached to cheques drawn on the Grand Trunk, Georgian Bay and Lake Erie Railway and Municipal trust account.

I, , Chief Engineer for the Grand Trunk, Georgian Bay and Lake Erie Railway Company do hereby certify that the sum of dollars is required to be expended in the construction of the portion of the line extending from Mile No. to Mile No. , and that payment should be made to the company of such amount from the Grand Trunk, Georgian Bay and Lake Erie Railway and Municipal Trust Account, the same being in pursuance of the terms and conditions of the By-Law No. , of the municipality of the of

CHAPTER

CHAPTER 70.

An Act respecting the Port Rowan and Lake Shore Railway Company.

[Assented to 4th March, 1881.]

WHEREAS the Port Rowan and Lake Shore Railway Company have petitioned that an Act may be passed to amend the Act of incorporation of the said railway company, passed in the forty-third year of Her Majesty's reign, and chaptered fifty-nine, and to grant to said company additional powers and privileges, and it is expedient to grant the prayer of the said petition; Preamble.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The time limited in said Act for the completion of the said railway is hereby extended to four years from the passing of this Act. Time for completion extended.

2. Section ten of said Act is hereby amended, by striking out the words "the Town of Simcoe in the said county of Norfolk," and substituting therefor the words "in the Province of Ontario." 43 Vic., c. 59, s. 10, amended.

3. The said company may alter the route of the railway to be constructed by them under said Act, so that the same may run from Port Dover in a westerly direction to a point on Big Creek, in the township of Walsingham. Route may be altered.

4. It shall be lawful for the directors of said company to enter into any contract or contracts with any individual or association of individuals, for the construction or equipment, or both, of the said railway line, or any part thereof, including or excluding the procuring of the right of way for said railway line, and to pay therefor, either in cash or in bonds, or partly in paid-up stock of said company or otherwise as may be deemed expedient, and any of such contractors may be shareholders or directors of said company, any law, custom or usage to the contrary notwithstanding; provided that no such contract shall be of any force or validity till approved of by two-thirds of the shareholders present in person or represented by proxy at a general meeting of shareholders duly convened for considering the same. Contracts for construction. Proviso.

5. Any municipality through which the said railway may pass is hereby empowered to grant, by way of gift to the said company, any lands belonging to such municipality which may be required for right of way, station grounds, or other purposes. Aid from municipalities, etc.

poses connected with the construction, running or traffic of the said railway, and the said company may receive from any government or from any person or body corporate, municipal or politic, who may have power to make or grant the same, aid towards the construction, equipment or maintenance of the said railway by way of bonus, grant, gift or loan, in money or land, or debentures, or other securities for money or by way of guarantee upon such terms and conditions as may be agreed upon.

Telegraph
lines.

6. The said company may construct and operate a telegraph line or lines in connection with their said railway, and enter into any arrangements concerning the same, with any telegraph or railway company, and all the powers conferred upon telegraph companies by the various statutes relating to telegraph companies are hereby conferred upon said company, and the provisions of any statutes for the working and protection of telegraph lines, shall apply to any such telegraph lines constructed by the company.

Acquiring
lands in ad-
dition to road-
way.

7. When stone, gravel, earth or sand is or are required for the construction or maintenance of the said railway, or any part thereof, the company may acquire and hold land, in addition to the roadway, from which to obtain such supplies of the same as are required by them for such construction and maintenance, and the same or any part thereof may sell and dispose of when no longer required, and in case they cannot agree with the owner of the lands on which the same are situate for the purchase thereof may cause a Provincial Land Surveyor to make a map and description of the property so required, and they shall serve a copy thereof with notice of arbitration, as in the case of acquiring the roadway, and all the provisions of the Railway Act of Ontario, as to the service of the said notice of arbitration, compensation, deeds, payment of money into court, the right to sell, the right to convey, and the parties from whom land may be taken or who may sell, shall apply to the subject-matter of this section, and to the obtaining materials as aforesaid, and such proceedings may be had by the said company, either for the right to the fee simple to the land from which the said material shall be taken, or for the right to take material for any time they shall think necessary, the notice of arbitration, in case arbitration is resorted to, to state the interest required.

Sidings to
gravel pits, etc.

8. When said gravel or stone, or other material, shall be taken under the preceding section of this Act at a distance from the line of the railway, the company may lay down the necessary sidings and tracks over any lands which may intervene between the railway and the lands on which said material shall be found, whatever the distance may be, and all the provisions of the "Railway Act of Ontario," and of the special Acts relating to said company, except such as relate to filing plans

plans and publication of notice shall apply, and may be used and exercised to obtain the right of way from the railway to the land on which such materials are situated, and such right may be so acquired for a term of years, or permanently, as the company may think proper; and the powers in this and the preceding section may at all times be exercised and used in all respects after the railway is constructed for the purpose of repairing and maintaining the said railway, and so far as section thirty-five of the Act incorporating said company contains anything inconsistent with this or the preceding section, it is hereby repealed;

(2) When estimating the damages for the taking of material under this and the preceding section, sub-section eight of section twenty of the "Railway Act of Ontario" shall not apply.

9. Should the shareholders of the company resolve that the interests of the company would be best promoted by enabling one or more of the directors to act for the company in any particular matter or matters, it shall be lawful for the directors after such resolution to confer such power upon one or more of their number. Delegation of authority to one or more directors.

10. Section twenty-seven of the Act, incorporating said company, is hereby amended by adding the words "and the trustees shall be entitled to their reasonable fees and charges from such trust fund." 43 Vic., c. 59, s. 27, amended.

11. Aliens, as well as British subjects, and whether resident in this Province or elsewhere, may be shareholders in the said company, and all such shareholders shall be entitled to vote on their shares equally with British subjects and shall also be eligible to office as directors of the said company. Aliens may be shareholders and directors.

12. The said company shall have the right, on and after the first day of November in each year, to enter into and upon any lands of Her Majesty, or of any corporation or person whomsoever, lying along the route or line of its railway, and to erect and maintain snow fences thereon, subject to the payment of such damage (if any), as may be thereafter established in the manner provided by law in respect to such railway, to have been actually suffered: Provided always, that any such snow fences so erected shall be removed on or before the first day of April next following. Snow fences. Proviso.

CHAPTER 71.

An Act to incorporate the Port Royal and Detroit River Railway Company.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the construction of a railway from a point at or near the western terminus of the Port Rowan and Lake Shore Railway in the county of Norfolk, thence along the north shore of Lake Erie to a point at or near Amherstburgh or Bar Point, or some point on the River Detroit in the county of Essex, has become desirable for the development of the resources of certain portions of the counties bordering on the proposed line and for the public convenience and accommodation of the inhabitants thereof; and whereas William Collier, Charles Dixon, Calvin Gates, W. Y. Emery, William Backhouse, George Suffel, Manuel Payne, S. Shepherd, John Duck, and George Thompson, and others, inhabitants of the counties of Norfolk, Elgin, Kent, and Essex, have, by their petition, prayed that they may be incorporated for the purpose of constructing such a railway, and it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Incorporation.

1. William Collier, Charles Dixon, Calvin Gates, W. Y. Emery, William Backhouse, George Suffel, Manuel Payne, S. Shepherd, John Duck, and George Thompson together with such other persons and corporations as shall, in pursuance of this Act, become shareholders of the company hereby incorporated are hereby constituted and declared to be a body corporate and politic, by the name of "The Port Royal and Detroit River Railway Company."

Location of line.

2. The said company shall have full power under this Act to construct a railway from a point on Big Creek in the township of Walsingham in the county of Norfolk, at or near the western terminus of the Port Rowan and Lake Shore Railway, thence along the north shore of Lake Erie to a point at or near the town of Amherstburgh, or at or near Bar Point in the township of Malden in the county of Essex or to some point on the River Detroit in said county.

Gauge.

3. The gauge of the said railway shall be four feet, eight and one-half inches.

Form of conveyance.

4. Conveyances of land to the said company for the purposes of and powers given by this Act made in the form set out

out in Schedule "A," hereunder written, or to the like effect, shall be sufficient conveyances to the said company, their successors, and assigns of the estate or interest, and sufficient bar of dower respectively of all persons executing the same; and such conveyances shall be registered in such manner and upon such proof of execution as is required under the Registry Laws of Ontario, and no registrar shall be entitled to demand more than seventy-five cents for registering the same, including all entries and certificates thereof and certificates indorsed on the duplicates thereof.

5. From and after the passing of this Act, the said William Collier, Charles Dixon, Calvin Gates, W. Y. Emery, William Backhouse, George Suffel, Manuel Payne, S. Shepherd, John Duck, and George Thompson shall be the provisional directors of the said company.

Provisional directors.

6. The said provisional directors, until others shall be named as hereinafter provided, shall constitute the board of directors of the company with power to fill vacancies occurring thereon; to associate with themselves thereon not more than three other persons who upon being so named shall become and be provisional directors of the company equally with themselves, to open stock books, to make a call upon the shares subscribed therein, to call a meeting of the subscribers thereto for the election of other directors, as hereinafter provided, and with all such other powers as under the Railway Act and other laws in force in Ontario, are vested in such boards.

Powers of provisional directors.

7. The capital stock of the company hereby incorporated shall be five hundred and eighty thousand dollars (with power to increase the same in the manner provided by the Railway Act) to be divided into five thousand eight hundred shares of one hundred dollars each, and shall be raised by the persons and corporations who may become shareholders in such company, and the money so raised shall be applied, in the first place, to the payment and discharge of all fees, expenses, and disbursements for procuring the passage of this Act and for making the surveys, plans, and estimates connected with the works hereby authorized, and the remainder of such money shall be applied to the making, equipment and completion of the said railway and the other purposes of this Act, and until such preliminary expenses shall be paid out of the said capital stock, the municipality of any city, county, town, township, or village on the line of such works may pay out of the general funds of such municipality its fair proportion of such preliminary expenses, which shall hereafter, if such municipality shall so require, be refunded to such municipality from the capital stock of the company or be allowed to it in payment of stock.

Capital stock.

8. On the subscription for shares of the said capital stock, each subscriber shall pay to the directors for the purposes set out

Ten per cent. to be paid at

time of sub-
scription.

out in this Act ten per centum of the amount subscribed by him, and the said directors shall deposit the same in some chartered bank to the credit of the said company.

Calls.

9. Thereafter calls may be made by the directors for the time being as they shall see fit provided that no calls shall be made at any one time of more than ten per centum of the amount subscribed by each subscriber and at intervals of not less than three months, and thirty days' notice shall be given of each call as provided in section twelve.

First election
of directors.

10. As soon as shares to the amount of one hundred thousand dollars of the capital stock of the said company shall have been subscribed and ten per centum thereof paid into some chartered bank having an office in the Province of Ontario (which shall on no account be withdrawn therefrom unless for the service of the company), the directors shall call a general meeting of the subscribers to the said capital stock, who shall have so paid up ten per centum thereof, for the purpose of electing directors of the said company.

How meeting
may be called,
if provisional
directors
neglect to call
the same.

11. In case the provisional directors neglect to call such meeting for the space of three months after such amount of the capital stock shall have been subscribed and ten per centum thereof so paid up, the same may be called by any five of the subscribers who shall have so paid up ten per centum and who are subscribers among them for not less than four thousand dollars of the said capital stock and who have paid up all calls thereon.

Notice of
general meet-
ing.

12. In either case, notice of the time and place of holding such general meeting shall be by publication in the *Ontario Gazette* and in one newspaper published in each of the counties affected, once in each week for the space of at least four weeks, and such meeting shall be held in the town of St. Thomas, at such place therein and on such day as may be named by such notice; at such general meeting the subscribers for the capital stock who shall have so paid up ten per centum thereof, whether present in person or represented by proxy, shall choose nine persons to be directors of the said company and may also make or pass such rules and regulations and by-laws as may be deemed expedient: Provided they be not inconsistent with this Act.

Election of
directors.

Annual meet-
ings.

13. Thereafter the general annual meeting of the shareholders of the said company shall be held in the said town of St. Thomas, in such place and on such days and on such hours, as may be directed by the by-laws of the said company, and public notice thereof shall be given at least four weeks previously in the *Ontario Gazette* and once a week for the same period in some newspaper published in each of the counties from which a bonus has been received

14. Special general meetings of the shareholders of the said company may be held at such places, at such times and in such manner and for such purposes as may be provided by the by-laws of the said company upon such notice as is provided in the last preceding section. Special general meetings.

15. Every shareholder of one or more shares of the capital stock shall, at any general meeting of the shareholders, be entitled to one vote for every share held by him, and no shareholder shall be entitled to vote on any matter whatever unless all calls due on the stock upon which such shareholder seeks to vote shall have been paid up at least one week before the day appointed for such meeting. Votes.

16. No person shall be qualified to be elected as such director by the shareholders unless he be a shareholder holding at least ten shares of stock in the company and unless he has paid up all calls thereon. Qualification of directors.

17. Any meeting of the directors of the said company regularly summoned, at which not less than five directors shall be present, shall be competent to exercise and use all and every of the powers hereby vested in the said directors. Quorum of directors.

18. Any municipality, or any portion of a township municipality, which may be interested in securing the construction of the said railway, or through any part of which, or near which, the railway or works of the said company shall pass or be situate, may aid the said company by giving money or debentures, by way of bonus, gift or loan, or by the guarantee of the municipal corporation, under and subject to the provisions hereinafter contained: Provided always that no such aid shall be given except after the passing of a by-law for the purpose and the adoption of such by-law by the qualified ratepayers of the municipality, or portion of municipality (as the case may be), in accordance with and as provided by law in respect to granting aid by way of bonuses to railways. Aid from municipalities.
Proviso.

19. Such by-laws shall be submitted by the municipal council to the vote of the ratepayers in manner following, namely:— Provisions as to bonus by-laws.

(1) The proper petition shall first be presented to the council, expressing the desire to aid the railway, and stating in what way and for what amount; and the council shall, within six weeks after the receipt of such petition by the clerk of the municipality, introduce a by-law to the effect petitioned for, and submit the same for the approval of the qualified voters;

(2) In the case of a county municipality, the petition shall be that of a majority of the reeves and deputy-reeves, or of fifty resident freeholders in each of the minor municipalities of the county who are qualified voters under the Municipal Act;

(3)

(3) In the case of other municipalities, the petition shall be that of a majority of the council thereof, or of fifty resident freeholders, being duly qualified voters as aforesaid;

(4) In the case of the section of a township municipality, the petition is to be presented to the council, defining the section by metes and bounds, or lots and concessions, and shall be that of a majority of the council of such township municipality, or of fifty resident freeholders in such section of the municipality, being duly qualified voters as aforesaid.

Provisions for referring to arbitration disputes as to bonus by-laws.

20. In case of aid from a county municipality, fifty resident freeholders of the county may petition the county council against submitting the said by-law upon the ground that certain minor municipalities or portions thereof comprised in the said by-law would be injuriously affected thereby, or upon any other ground ought not to be included therein, and upon deposit by the petitioners with the treasurer of the county of a sum sufficient to defray the expense of such reference, the said council shall forthwith refer the said petition to three arbitrators, one being the judge of the county court, one being the registrar of the county or of the riding in which the county town is situate, and one being an engineer appointed by the Commissioner of the Department of Public Works for Ontario, who shall have power to confirm or amend the said by-law, by excluding any minor municipality or any section thereof therefrom; and the decision of any two of them shall be final; and the by-law so confirmed or amended shall thereupon, at the option of the railway company, be submitted by the council to the duly qualified voters, and in case the by-law is confirmed by the arbitrators, the expense of the reference shall be borne by the petitioners against the same, but if amended, then by the railway company or the county, as the arbitrators may order.

Deposit for expenses.

21. Before any such by-law is submitted, the railway company shall, if required, deposit with the treasurer of the municipality a sum sufficient to pay the expenses to be incurred in submitting said by-law.

"Minor municipality," meaning of.

22. The term "minor municipality" shall be construed to mean any town not separated from the municipal county, township or incorporated village situate in the county municipality.

Rate not exceeding three cents in the dollar valid.

23. All municipalities or portions thereof interested in the construction of the road of the said company, may grant aid by way of bonus to the said company, towards the construction of such road, notwithstanding that such aid may increase the municipal taxation of such municipalities or portions thereof, beyond what is allowed by law: Provided that such aid shall not require the levying of a greater aggregate annual rate for all

Proviso.

all purposes, exclusive of school rates, than three cents in the dollar upon the value of the ratable property therein.

24. Such by-law shall in each instance provide :—

By-law, what to contain.

(1) For raising the amount petitioned for in the municipality or portion of the township municipality (as the case may be), mentioned in the petition, by the issue of debentures of the county or minor municipality respectively, and shall also provide for the delivery of the said debentures or the application of the amount to be raised thereby, as may be expressed in the said by-law ;

(2) For assessing and levying upon all ratable property lying within the municipality or portion of the township municipality defined in said by-law (as the case may be), an annual special rate sufficient to include a sinking fund for the repayment of the said debentures within twenty years, with interest thereon, payable yearly or half-yearly, which debentures the respective municipal councils, warden, mayors, reeves and other officers thereof, are hereby authorized to execute and issue in such cases respectively.

25. In case such by-law be approved and carried in accordance with the provisions of the law in that behalf, then within one month after the date of such voting, the said council shall read the said by-law a third time, and pass the same.

If by-law carried, the council to pass the same ;

26. Within one month after the passing of such by-law, the said council and reeve or other head thereof, and the other officers thereof, shall issue the debentures provided for by the by-law, and deliver the same duly executed to the trustees appointed or to be appointed under this Act.

And issue debentures.

27. In case any such loan, guarantee, stock subscription or bonus, be so granted by a portion of the township municipality, the rate to be levied for payment of the debentures issued therefor, and the interest thereon, shall be assessed and levied upon such portion only of such municipality.

Rate to be levied on part of municipality only.

28. The provisions of the "Municipal Act," and the amendments thereto, so far as the same are not inconsistent with this Act shall apply to any by-law so passed by or for a portion of a township municipality to the same extent as if the same had been passed by or for the whole municipality.

Municipal Act to apply to the by-laws.

29. It shall further be lawful for the corporation of any municipality through any part of which the railway of the said company passes, or is situate by by-law expressly passed for that purpose, to exempt the said company and its property within such municipality, either in whole or in part, from municipal assessment and taxation, or to agree to a certain sum per

Exemption from taxation.

per annum or otherwise, in gross or by way of commutation or composition for payment or in lieu of all or any municipal rates or assessments to be imposed by such municipal corporation, and for such term of years as such municipal corporation may deem expedient, not exceeding twenty-one years.

Appointment
of directors by
municipali-
ties.

30. When any municipality shall grant a bonus or other assistance of not less than five thousand dollars in aid of the said company, the council of such municipality shall be entitled to name a director in the said company as the representative of such municipality, and such director shall be in addition to all shareholders' directors in the said company, and shall not require to be a shareholder in the said company, and shall continue in office as director in the said company until his successor shall be appointed by the municipality which he represents.

Trustees of
debentures.

31. Whenever any municipality or portion of a township municipality shall grant aid by way of bonus or gift to the railway company, the debentures therefor shall within six months after passing of the by-law authorizing the same, be delivered to three trustees, to be named, one by the Lieutenant-Governor in Council, one by the said company, and one by the majority of the heads of the municipalities which have granted bonuses, all of the trustees to be residents of the Province of Ontario : Provided that if the said heads of the municipalities shall refuse or neglect to name such trustee within one month after notice in writing of the appointment of the company's trustee, or if the Lieutenant-Governor in Council shall omit to name such trustee within one month after notice in writing to him of the appointment of the other trustees, then in either case the company shall be at liberty to name such other trustee or other trustees ; any of the said trustees may be removed and a new trustee appointed in his place at any time by the Lieutenant-Governor in Council ; and in case any trustee dies or resigns his trust, or goes to live out of Ontario or otherwise becomes incapable to act, his trusteeship shall become vacant, and a new trustee may be appointed by the Lieutenant-Governor in Council.

Proviso.

Trusts of
debentures.

32. The said trustees shall receive the said debentures or bonds in trust : Firstly, under the directions of the company, but subject to the conditions of the by-law in relation thereto, as to time or manner, to convert the same into money or otherwise dispose of them : Secondly, to deposit the debentures or amount realized from the sale in some chartered bank having an office in the Province of Ontario, in the name of the "Port Royal and Detroit River Railway Municipal Trust Account," and to pay the same out to the said company from time to time as the said company become entitled thereto under the conditions of the by-law granting the said bonus, and on the certificate of the chief engineer of the

the said railway for the time being, in the form set out in the schedule "B" hereto, or to the like effect, which certificate shall set forth, that the conditions of the by-law have been complied with, and is to be attached to the cheque or order drawn by the said trustees for such payments, or delivery of debentures; and such engineer shall not wrongfully grant any such certificate, under a penalty of five hundred dollars, recoverable in any court of competent jurisdiction by any person who may sue therefor.

33. The trustees shall be entitled to their reasonable fees and charges from said trust fund; and the act of any two of such trustees shall be as valid and binding as if the three had agreed.

Fees to trustees.
Act of two trustees binding.

34. Any county corporation in which county is or are situated, a township or townships, or a portion of a township that shall grant a bonus or bonuses, or any loan, stock subscription or other benefit, in aid of the said company, shall be at liberty to take the debentures issued by such township or townships or portion of a township, and, in exchange therefor, to hand over to the trustees under this Act the debentures of the county, on a resolution being passed to that effect by a majority of the county council, but the township municipality shall in each case keep the county municipality fully indemnified against any rate or liability in respect of said debentures.

Township debentures may be exchanged for county debentures.

35. The directors of the said company, after the sanction of the shareholders shall have been first obtained at any special general meeting to be called from time to time for such purpose, shall have power to issue bonds made and signed by the president and vice-president of the said company and countersigned by the secretary, and under the seal of the said company, for the purpose of raising money for prosecuting the said undertaking, and such bonds shall, without registration or formal conveyance, be taken and considered to be the first and preferential claims and charges upon the undertaking, and the real property of the company, including its rolling stock and equipments then existing, and at any time thereafter acquired, and each holder of the said bonds shall be deemed to be a mortgagee and incumbrancer *pro rata*, with all the other holders thereof upon the undertaking and property of the company aforesaid: Provided, however, that the whole amount of such issue of bonds shall not exceed in all the sum of two hundred and ninety thousand dollars, nor shall the amount of such bonds issued at any one time be in excess of the amount of municipal and other bonuses and paid-up share capital actually expended in surveys, purchase of right of way and works of construction and equipment upon the line of the said railway, or material actually purchased, paid for, and delivered to the company, within the Provinces of Ontario and Quebec; and provided also further, that in the event at any time

Issue of bonds.

Proviso.

Proviso.
time

time of the interest upon the said bonds remaining unpaid and owing, then at the next ensuing general annual meeting of the said company, all holders of bonds shall have and possess the same rights, privileges and qualifications for directors, and for voting, as are attached to shareholders: Provided that the bonds and any transfers thereof, shall have been first registered in the same manner as is provided for the registration of shares, and it shall be the duty of the secretary of the company to register the same, on being required to do so by any holder thereof.

Bonds, etc.,
may be made
payable to
bearer.

36. All such bonds and coupons thereon respectively, may be made payable to bearer and transferable by delivery, and any holder of any such bonds so made payable to bearer may sue at law thereon in his own name.

Company may
make promissory
notes, etc.

37. The said company shall have power and authority to become parties to promissory notes and bills of exchange for sums of not less than one hundred dollars, and any such promissory note made or indorsed by the president of the company and countersigned by the secretary of the said company, and under the authority of a quorum of the directors, shall be binding on the said company, and every such promissory note or bill of exchange so made shall be presumed to have been made with proper authority until the contrary be shewn, and in no case shall it be necessary to have the seal of the said company affixed to such promissory note or bill of exchange, nor shall the president or vice-president or the secretary and treasurer be individually responsible for the same unless the said promissory notes or bills of exchange have been issued without the sanction and authority of the directors as herein provided and enacted: Provided however that nothing in this section shall be construed to authorize the said company to issue any note or bill of exchange payable to bearer or intended to be circulated as money or as the notes or bills of a bank.

Proviso.

Entering into
contracts.

38. It shall be lawful for the directors to enter into a contract or contracts with any individual or association of individuals for the construction or equipment, or both, of the said railway line or any part thereof, including or excluding the procuring of the right of way for said railway line, and to pay therefor either in cash or in bonds, or partly in paid up stock of said company or otherwise, as may be deemed expedient, and any of such contractors may be shareholders or directors of said company any law, custom, or usage to the contrary notwithstanding: Provided that no such contract shall be of any force or validity till approved of by two-thirds of the shareholders present in person or represented by proxy at a general meeting of shareholders duly convened for considering the same.

Directors may
be contractors.

39. The said company is hereby authorized and empowered to take and make the surveys and levels of the lands through which the said railway is to pass, together with the map or plan thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, so far as then ascertained, and also the book of reference for the railway, and to deposit the same as required by the clauses of the Railway Act of Ontario and amendments thereto, with respect to plans and surveys, by sections or portions less than the length of the whole railway authorized, of such length as the said company may from time to time see fit, so that no one of such sections or portions shall be less than ten miles in length, and upon such deposit as aforesaid of the map or plan and book of reference of any and each of such sections or portions of the said railway all and every of the clauses of the said Railway Act, and the amendments thereof applied to, included in or incorporated with this Act, or otherwise applicable to the said railway company shall apply and extend to any and each of such sections or portions of the said railway as fully and effectually as if the surveys and levels had been taken and made of the lands through which the whole of the said railway is to pass, together with the map or plan of the whole thereof, and of the whole course and direction of the lands intended to be passed over and taken and the book of reference for the whole of the said railway had been taken, made, examined, certified, and deposited according to the said clauses of the said Railway Act and the amendments thereof with respect to plans and surveys.

Maps, plans and books of reference may be for sections of ten miles or more.

40. Whenever it shall be necessary for the purposes of procuring sufficient land for stations or gravel pits or for constructing, maintaining and using the said railway, and in case by purchasing the whole of any lot or parcel of land over which the railway is to run the company can obtain the same at a more reasonable price, or to greater advantage, than by purchasing the railway line only, the company may purchase, hold, use, or enjoy such lands and also the right of way thereto, if the same be separated from their railway, and may sell and convey the same or part thereof from time to time as they may deem expedient, but the compulsory clauses of the Railway Act shall not apply to this section.

Powers as to lands for stations, gravel pits, etc.

41. Any municipality through which the said railway may pass is hereby empowered to grant, by way of gift to the said company, any lands belonging to such municipality which may be required for right of way, station grounds, or other purposes connected with the construction, running, or traffic of the said railway, and said company may receive from any government, or from any person, or body corporate, municipal or politic, who may have power to make, or grant the same, aid towards the construction, equipment, or maintenance of the said railway, by way of bonus, grant, gift, or loan in money or land or debentures, or other securities for money or by way of guarantee

Aid to company.

antee, upon such terms and conditions as may be agreed upon.

Telegraph
lines.

42. The said company may construct and operate a telegraph line or lines in connection with their said railway, and enter into any arrangements concerning the same, with any telegraph or railway company, and all the powers conferred upon telegraph companies by the various statutes relating to telegraph companies are hereby conferred upon said company, and the provisions of any statutes for the working and protection of telegraph lines, shall apply to any such telegraph lines constructed by the company.

Power to ac-
quire quarries
and gravel
pits, etc.

43. When stone, gravel, earth or sand, is or are required for the construction or maintenance of said railway, or any part thereof, the company may, in case they cannot agree with the owner of the lands on which the same is situate for the purchase thereof, cause a provincial surveyor to make a map and description of the property so required, and they shall serve a copy thereof, with their notice of arbitration, as in case of acquiring the roadway, and the notice of arbitration, the award and the tender of compensation, shall have the same effect as in case of arbitration for the roadway; and all the provisions of the Railway Act of Ontario, and of this Act, as to the service of the said notice, arbitration, compensation, deeds, payment of money into court, the right to sell, the right to convey, and the parties from whom lands may be taken, or who may sell, shall apply to the subject matter of this section, as to the obtaining of materials as aforesaid; and such proceedings may be had by the said company, either for the right to the fee simple in the land from which said material shall be taken, or for the right to take material for any time they shall think necessary; the notice of arbitration, in case arbitration is resorted to, to state the interest required.

Sidings to
gravel pits, etc.

44. When said gravel, stone, or other material, shall be taken under the preceding section of this Act, at a distance from the line of the railway, the company may lay down the necessary sidings and tracks over any lands which may intervene between the railway and the lands on which said material shall be found, whatever the distance may be, and all the provisions of the "Railway Act of Ontario," and of this Act, except such as relate to filing plans and publication of notice, shall apply and may be used and exercised to obtain the right of way from the railway to the land on which such materials are situated; and such right may be so acquired for a term of years, or permanently, as the company may think proper, and the powers in this and the preceding section may at all times be exercised and used in all respects after the railway is constructed, for the purpose of repairing and maintaining the said railway;

Proviso.

(2) When estimating the damages for the taking of gravel, stone,

stone, earth or sand under this and the preceding section, subsection eight of section twenty of the "Railway Act of Ontario" shall not apply.

45. Should the shareholders of the company resolve that the interests of the company would be best promoted by enabling one or more of the directors to act for the company in any particular matter or matters, it shall be lawful for the directors, after such resolution, to confer such power upon one or more of their number.

Delegation of authority to one or more directors.

46. Aliens, as well as British subjects, and whether resident in this Province or elsewhere, may be shareholders in the said company, and all such shareholders shall be entitled to vote on their shares equally with British subjects, and shall also be eligible to office as directors of the said company.

Aliens may be shareholders and directors.

47. Said company shall have the right on and after the first day of November in each year, to enter into and upon any lands of Her Majesty, or of any corporation or person whomsoever, lying along the route or line of its railway, and to erect and maintain snow fences thereon, subject to the payment of such damages (if any) as may be thereafter established in the manner provided by law in respect of such railway, to have been actually suffered: Provided always, that any such snow fences so erected shall be removed on or before the first day of April next following.

Snow fences.
Proviso.

48. The railway shall be commenced within two years and completed within eight years after the passing of this Act, or else the charter shall be forfeited.

Commencement and completion of line.

49. The company incorporated by this Act may enter into any arrangement with any other railway company or companies which is or are lawfully empowered to enter into such an agreement for the leasing or working of the said railway, on such terms and conditions as the directors of the several companies may agree upon, or for leasing or hiring from such other company or companies any portion of their railway, or the use thereof, for leasing or hiring any locomotives or other rolling stock or moveable property from such companies or persons, and generally to make any agreement or agreements with any other companies so lawfully authorized touching the use by one or the other, or by both companies of the railway or rolling stock of either or both, or any part thereof, or touching any service to be rendered by the one company to the other, and the compensation therefor, and any such agreement shall be valid and binding according to the terms and tenor thereof: Provided that the assent of at least two-thirds of the shareholders shall be first obtained at a general special meeting to be called for the purpose, according to the by-laws of the company, and the provisions of this Act, and the company or companies leasing or entering into such

Arrangements with other companies.
Proviso.

such agreement for using the said railway may, and are hereby authorized to work the said railway, and in the same manner as if incorporated with its own line; but this section shall not be construed as purporting or intending to confer rights or powers upon any company which is not within the legislative authority of this Province.

Carriage of
cordwood.

Proviso.

50. The said railway company shall, at all times, receive and carry cordwood, or any wood, or fuel at a rate not to exceed, for dry wood, three cents per mile per cord, from all stations, in full carloads, and for green wood at the rate of three cents per ton per mile; the company shall further at all times furnish every facility necessary for the free and unrestricted traffic in cordwood and fuel to as large an extent as in the case of other freight carried over the said railway: Provided always that the owner, consignor, or consignee of the said wood or fuel, shall load and unload the same on and off the cars of the said company or cause the same to be done at the expense of the said owner, consignor, or consignee, and in case any car is detained for more than twenty-four hours after its arrival at its destination, without being unloaded by the owner or consignee, then it shall and may be lawful for the said company to charge demurrage.

SCHEDULE "A."

(Section 4.)

Know all men by these presents, that I (or we) [*insert the name or names of the vendors*] in consideration of

dollars paid to me (or us) by the Port Royal and Detroit River Railway Company, the receipt whereof is hereby acknowledged, do grant and convey to the said company, and I (or we) [*insert name of any other party or parties*] in consideration of

dollars, paid to me (or us) by the said company, the receipt whereof is hereby acknowledged, do grant and release to the said company, all that certain parcel (or those certain parcels, *as the case may be*) of land (*describe the land*), the same having been selected and laid out by the said company for the purposes of their railway, to hold with the appurtenances unto the said the Port Royal and Detroit River Railway Company, their successors and assigns, (*here insert any other clauses, conditions and covenants required*) and I (or we) wife (or wives) of the said

do hereby bar my (or our) dower in the said lands.
As witness my (or our) hand and seal (or hands and seals) this
day of one thousand eight hundred

and

Signed, sealed and delivered }
in presence of }

(L.S.)
SCHEDULE

SCHEDULE "B."

(Section 32.)

Chief Engineer's Certificate.

The Port Royal and Detroit River Railway Company's Office,
Engineer's Department.

No.

A.D. 188 .

Certificate to be attached to cheques drawn on the Port Royal and Detroit River Railway Company Municipal Trust Account, given under section chapter of the Acts of the Legislature of Ontario, passed in the year of Her Majesty's Reign.

I, Chief Engineer for the Port Royal and Detroit River Railway Company do certify that the said company has fulfilled the terms and conditions necessary to be fulfilled under the by-law number of the township of (or under the agreement dated the day of between the corporation of and the said company) to entitle the said company to receive from the said trust the sum of [here set out the terms and conditions, if any, which have been fulfilled.]

CHAPTER 72.

An Act respecting the Prince Edward County Railway Company.

[Assented to 4th March, 1881.]

WHEREAS, the Prince Edward County Railway Company Preamble have petitioned the Legislature for certain amendments to their Act of incorporation, passed in the thirty-sixth year of Her Majesty's reign, chaptered seventy-three, and the several Acts amending the said Act of incorporation, passed in the thirty-seventh year of Her Majesty's reign, and chaptered sixty, in the forty-first year of Her Majesty's reign and chaptered fifty-one, and in the forty-third year of Her Majesty's reign, and chaptered sixty-one; and it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Extension of railway authorized from Trenton northwards.

1. It shall be lawful for the said railway company to extend their line of railway from any point on the said line within the town of Trenton, in the county of Hastings, or from the terminus of the said railway at its junction with the Grand Trunk Railway of Canada, at Trenton aforesaid, northerly, to, into or through the township of Marmora, in the said county of Hastings, and from some point on the said extension to Eldorado, in the township of Madoc, and also to the village of Madoc, in said county; and it shall be lawful for the said railway company, and the said railway company shall have full power and authority to lay out, construct and complete a double or single track railway, between the points aforesaid.

Further extensions authorized.

2. It shall be lawful for the said Prince Edward County Railway Company, and the said railway company shall have full power and authority to lay out and construct a double or single track railway from any point on the line of the present Prince Edward County Railway, to any point on Weller's Bay, or on the Bay of Quinte, or to any harbour or inlet of the said bay.

Power to issue bonds as a charge on different sections of the railway.

3. The provisions of sections fifteen and sixteen of the Act to incorporate the said railway company, being chapter seventy-three of the Acts passed in the thirty-sixth year of Her Majesty's reign, as to the issue of bonds, shall apply to the extensions of the road authorized by this Act, and the said company shall have authority to issue bonds covering the said extensions to the extent of nine thousand dollars per mile upon compliance with the provisions, terms and conditions of the said sections, and the shareholders of the said company may, by vote of a majority thereof at any special or general meeting, divide the said railway into two sections for the purpose of issuing bonds, and in case such division shall be determined upon, the portion of said railway now constructed from the town of Picton to the junction with the Grand Trunk Railway at the town of Trenton, together with all branches that may hereafter be constructed within the county of Prince Edward shall be known as the first section, and the extensions authorized by section one of this Act shall be known as the second section of the said railway, and in case such division is made the section which it is intended that the bonds hereafter to be issued shall cover, shall be clearly stated and designated, but nothing shall be done under the foregoing provisions which shall impair the security of the present holders of bonds of the said railway company on the portion of road now constructed.

Increase of capital and issue of preferred stock authorized.

4. The said Prince Edward County Railway Company shall have full power to increase the capital stock of the said company, by a vote of the majority of the shareholders, to an amount not exceeding the sum of seven hundred and fifty thousand dollars, at a meeting to be held for that purpose, and of which meeting not less than two weeks previous notice shall

shall have been given in the *Ontario Gazette*, and in one or more of the newspapers published in Picton, and to constitute such shares of the stock as may be thought proper, preferred, or debenture shares, and to attach such privileges and conditions to said preferred or debenture shares, as may appear desirable; Provided always, that the issue of the said preferred or debenture shares shall not affect prejudicially the bonds already issued, or impair the security of the present holders of the said bonds on the portion of road now constructed.

CHAPTER 73.

An Act to incorporate the St. Catharines and Niagara Central Railway Company.

[Assented to 4th March, 1881.]

WHEREAS the persons hereinafter named and others have, *Preamble.*
by their petition, prayed to be incorporated as a company, for constructing, equipping, and operating a railway from a point in the city of St. Catharines, to some point at or near the village of Bismarck, thence to a point at or near the village of Smithville, both in the county of Lincoln, thence to a point in or near the village of Caledonia, or a point at or near the Canfield station of the Grand Trunk Railway, both in the county of Haldimand, and a branch from a suitable point in the township of Caistor to intersect the Hamilton and North-Western Railway near the city of Hamilton, and a branch or the main line of the said railway to the village of Queenston, in the county of Lincoln, or other point on the Niagara River, with power to build in sections; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. William Hoover, T. Healey, Nelson Haight, George C. Incorporation.
Carlisle, John R. Monro, James C. Harris, Thomas Shaw, James Norris, Charles Steinberg, Frank McGuire, George N. Oille, James M. Swayze, Bernard King, Andrew Wallace, R. Fitzgerald, J. Rollison, William B. Towers, James Mitchell, Lucius S. Oille, Thomas H. Towers, Theophilus Mack, D. W. Bixby, W. W. Greenwood, Richard Peterson, R. H. Smith, Thomas C. Dawson, Patrick Larkin, Richard Wood, Henry A. King, Samuel Montgomery, George P. M. Ball, E. Viger, James Murray, Alva McCollum, William Andrews, William A. Mittleberger, L. H. Collard, J. C. Rykert, Edward McArdle, Robert Murgatroyd, Jacob Strong, Michael Dalton, and F. W. Macdonald,

donald, together with such other persons and corporations as shall become shareholders in the company hereby incorporated, shall be and are hereby constituted a body corporate and politic, by the name of the "St. Catharines and Niagara Central Railway Company."

Location of
line.

2. The said company shall have full power under this Act to construct, equip, and operate a railway from a point in the city of St. Catharines to a point at or near the village of Bismarck, thence to a point at or near the village of Smithville, both in the county of Lincoln, thence to a point in or near the village of Caledonia, or some other point on the Grand River, or a point at or near the Canfield station on the Grand Trunk Railway, in the county of Haldimand, and a branch from a convenient point, to intersect the Hamilton and North-Western Railway in or near the city of Hamilton, and a branch or the main line from the city of St. Catharines to the village of Queenston, in the county of Lincoln, or other convenient point on the Niagara River, with full power to pass over any portion of the country between the several terminal points hereinbefore indicated and to construct the said railway in sections.

Gauge.

3. The gauge of the said railway shall not be less than four feet, eight and one-half inches.

Provisional
directors ;

4. James Norris, Roswell H. Smith, Richard Wood, Patrick Larkin, George P. M. Ball, Lucius S. Oille, Robert Murgatroyd, Nelson Haight, and William Hoover, with power to add to their number, shall be and are hereby constituted provisional directors of the said company, of whom seven shall be a quorum, and shall hold office as such until the first election of directors under this Act.

Their powers.

5. The said board of provisional directors shall have full power to open stock-books and procure subscriptions of stock for the undertaking, to make calls upon the subscribers, and collect the same, to cause surveys and plans to be executed, to enter into agreements for right of way, station grounds, terminal grounds and gravel pits, and to receive any grant, loan, bonus, or gift, made to or in aid of the undertaking, and to enter into any agreement respecting the conditions or disposition of any gift, or bonus, in aid of the railway, with all such other powers as under the Railway Act are vested in ordinary directors, and the said directors, or the board of directors to be elected as hereinafter mentioned, may in their discretion exclude any one from subscribing for stock, who in their judgment would hinder, delay, or prevent the company from proceeding with and completing their undertaking under the provisions of this Act, and if at any time a portion, or more than the whole stock shall have been subscribed the said provisional directors (or board of elected directors) shall allocate and apportion it among the subscribers, as they shall deem most advantageous

vantageous and conducive to the furtherance of the undertaking, and in such allocation the said directors may, in their discretion, exclude any one or more of the said subscribers, if in their judgment such exclusion shall best conduce to the building of the said railway.

6. The capital of the company hereby incorporated shall be ^{Capital} three hundred thousand dollars, with power to increase the same, in the manner provided by the Railway Act, to be divided into six thousand shares, of fifty dollars each, and shall be raised by the persons and corporations, who may become shareholders in such company, and the money so raised shall be applied, in the first place, to the payment of all expenses for procuring the passing of this Act, and for making the surveys, plans and estimates connected with the works hereby authorized, and the remainder of such money shall be applied to the purchasing of the right of way, to the making, equipment, completion and working of the said railway and the purposes of this Act, and until such preliminary expenses shall be paid out of the said capital stock, the municipal corporation of any municipality on or near the line of such works, may, by resolution, of which seven days' previous notice shall have been given, and passed by a majority of the said municipal corporation, authorize the treasurer of such municipality to pay out of the general funds of such municipality its fair proportion of such preliminary expenses, which shall hereafter, if such municipality shall so require, be refunded to such municipality from the capital stock of the company, or be allowed to it in payment of stock.

7. When and as soon as shares to the amount of thirty ^{First election} thousand dollars of the capital stock of the company shall have been subscribed, and ten per centum shall have been paid into a chartered bank, having an office in the Province of Ontario, the provisional directors, or a majority of them present at a meeting duly called for the purpose, shall call a meeting of the subscribers, for the purpose of electing directors, giving at least four weeks' notice in the *Ontario Gazette*, and by registered letter addressed to each subscriber, of the time, place and object of said meeting; and at such general meeting the shareholders present, either in person or by proxy, who shall, at the opening of such meeting, have paid ten per centum on the stock subscribed by them, shall elect seven persons to be directors of the said company, in manner and qualified as herein-after described, which said directors, together with the ex-officio directors, under the Municipal Act or this Act, shall constitute a board of directors. The sums so paid shall not be withdrawn from the bank except for the purposes of this Act.

8. In case the provisional directors neglect to call such meeting for the space of three months, after such amount of the capital stock, shall have been subscribed, and ten per centum ^{Provision in case provisional directors neglect to call meeting.} so

so paid up, the same may be called by any five of the subscribers who shall have so paid up ten per centum, and who are subscribers among them for not less than six thousand dollars of the capital stock, and who have paid up all calls thereon. Notice of such general meeting shall be given in the manner prescribed in the next preceding section.

Head office. 9. The principal office of the said company shall be in the city of St. Catharines, and all general meetings of the company shall be held in the said city.

Qualification of directors. 10. In the election of directors under this Act no person shall be elected unless he shall be the owner and holder of at least twelve shares of the stock of the said company, upon which all calls due thereon have been paid.

Annual meetings. 11. Thereafter the general annual meeting of the shareholders of the said company shall be held in the city of St. Catharines, on such days and hours as may be directed by the by-laws of the said company, and public notice thereof shall be given, at least four weeks previously in the *Ontario Gazette* and once a week for the same period in some newspaper in the county of Lincoln, and in each of the counties from which a bonus has been received.

Special general meetings. 12. Special general meetings of the shareholders of the said company may be held at such times and in such manner, and for such purposes as may be provided by the by-laws of the said company, upon such notice as is provided in the last preceding section.

Aliens. 13. Aliens and companies incorporated abroad as well as British subjects, and whether resident in this Province or elsewhere, may be shareholders in the said company, and all such shareholders shall be entitled to vote, on their shares, equally with British subjects, and shall also be eligible to office as directors of the said company.

Quorum. 14. At all meetings of the board of elected directors, five directors shall form a quorum for the transaction of business, and the said board of directors may employ one of their number as paid director.

Calls. 15. The directors for the time being may from time to time make calls as they shall think fit, provided that no calls shall be made at any one time for more than ten per centum of the amount subscribed by each shareholder, and four weeks' notice shall be given of each call, as provided in section seven, said calls not to be made at closer intervals than three months.

Payment of stock in full allowed. 16. It shall be lawful for the provisional or elected directors, to accept payment in full for stock, from any subscriber thereof,

thereof, at the time of subscription thereof or at any time before making any final call thereon, and to allow such percentage or discount thereon, as they may deem expedient and reasonable, and thereupon to issue scrip to such subscriber to the full amount of such stock subscribed.

17. The said company may receive from any Government, Aid to company. or from any persons or bodies corporate, municipal or politic, who may have power to make or grant the same, aid towards the construction, equipment or maintenance of the said railway, by way of gift, bonus or loan of money, or debentures, or other securities for money, or by way of guarantee, upon such terms and conditions as may be agreed upon.

18. The said provisional directors or the elected directors, Payments in bonds or stock authorized in certain cases. may pay or agree to pay in paid up stock, or in the bonds of the said company, such sums as they may deem expedient, to engineers or contractors, or for right of way, or material or plant, or rolling stock, buildings or lands, and also, subject to the sanction of a vote of the shareholders, for the services of the promoters, or other persons, who may be employed by the directors for the purpose of assisting the directors in the furtherance of the undertaking or purchase of the right of way, or material, plant or rolling stock, whether such promoters or other persons be provisional or elected directors or not, and any agreement so made shall be binding on the company.

19. Any municipality, or any portion of a township municipality, which may be interested in securing the construction of the said railway, or through any part of which, or near which, the railway or works of the said company shall pass or be situate, may aid the said company, by giving money or debentures, by way of bonus or gift, or may aid the said company by way of loan, or by the guarantee of the municipal corporation, under and subject to the provisions, hereinafter contained: Aid from municipalities. Provided always, that such aid shall not be given, Proviso. except after the passing of a by-law for the purpose, and the adoption of such by-law by the qualified ratepayers of the municipality or portion of municipality (as the case may be), in accordance with and as provided by law in respect to granting aid by way of bonuses to railways.

20. Such by-law shall be submitted by the municipal council to the vote of the ratepayers in manner following, namely: Provisions as to bonus by-law.

(1) The proper petition shall first be presented to the council expressing the desire to aid the railway and stating in what way and for what amount, and the council shall, within six weeks after the receipt of such petition by the clerk of the municipality, introduce a by-law to the effect petitioned for and submit the same for the approval of the qualified voters ;

(2)

(2) In the case of a county municipality, the petition shall be that of a majority of the reeves and deputy reeves or of fifty resident freeholders, in each of the minor municipalities of the county who are qualified voters under the Municipal Act;

(3) In the case of other municipalities, the petition shall be that of a majority of the council thereof, or of fifty resident freeholders, being duly qualified voters under the Municipal Act as aforesaid;

(4) In the case of a section of a township municipality, the petition is to be presented to the council, defining the section by metes and bounds, or lots and concessions, and shall be that of a majority of the council of such township municipality, or of fifty resident freeholders in such section of the municipality, being duly qualified voters as aforesaid.

Provisions for referring to arbitration disputes as to bonus by-laws.

21. In case of aid from a county municipality, fifty resident freeholders of the county may petition the county council against submitting the said by-law upon the ground that certain minor municipalities or portions thereof comprised in the said by-law would be injuriously affected thereby, or upon any other ground ought not to be included therein, and upon deposit by the petitioners with the treasurer of the county of a sum sufficient to defray the expense of such reference, the said council shall forthwith refer the said petition to three arbitrators, one being the judge of the county court, one being the registrar of the county or of the riding in which the county town is situate, and one being an engineer appointed by the Commissioner of the Department of Public Works for Ontario, who shall have power to confirm or amend the said by-law, by excluding any minor municipality or any section thereof therefrom; and the decision of any two of them shall be final; and the by-law so confirmed or amended shall thereupon, at the option of the railway company, be submitted by the council to the duly qualified voters, and in case the by-law is confirmed by the arbitrators, the expense of the reference shall be borne by the petitioners against the same, but if amended, then by the railway company or the county, as the arbitrators may order.

Deposit for expenses.

22. Before any such by-law is submitted, the railway company shall, if required, deposit with the treasurer of the municipality a sum sufficient to pay the expenses to be incurred in submitting said by-law.

Rate not exceeding three cents in the dollar valid.

23. All municipalities or portions thereof interested in the construction of the road of the said company may grant aid by way of bonus to the said company towards the construction of such road, notwithstanding that such aid may increase the municipal taxation of such municipalities or portions thereof, beyond what

what is allowed by law: Provided that such aid shall not require the levying of a greater aggregate annual rate for all purposes exclusive of school rates, than three cents in the dollar upon the value of the ratable property therein.

24. Such by-law shall in each instance provide: (1) For raising the amount petitioned for in the municipality or portion of the township municipality (as the case may be) mentioned in the petition, by the issue of debentures of the county or minor municipality respectively, and shall also provide for the delivery of the said debentures, or the application of the amount to be raised thereby as may be expressed in the said by-law; (2) For assessing and levying upon all ratable property lying within the municipality or portion of the township municipality defined in said by-law (as the case may be) an annual special rate sufficient to include a sinking fund for the repayment of the said debentures, within twenty years, with interest thereon, payable yearly or half-yearly, which debentures the respective municipal councils, wardens, mayors, reeves and other officers thereof, are hereby authorized to execute and issue in such cases respectively.

By-law, what to contain.

25. The term "minor municipality" shall be construed to mean, any town not separated from the municipal county, township or incorporated village situate in the county municipality.

"Minor municipality," meaning of.

26. In case the by-law submitted be approved of and carried, in accordance with the provisions of the law in that behalf, then within four weeks after the date of such voting the municipal council which submitted the same, shall read the said by-law a third time and pass the same.

If by-law carried, council to pass same;

27. Within one month after the passing of such a by-law, the said council and the mayor, warden, reeve or other officers thereof shall issue or dispose of the debentures necessary to raise the sum mentioned in such by-law, and otherwise act according to the terms thereof.

And issue debentures.

28. It shall be lawful for the corporation of any municipality, through any part of which the railway of the said company passes or is situate, by by-law expressly passed for that purpose, to exempt the said company and its property within such municipality, either in whole or in part, from municipal assessment or taxation, or to agree to a certain sum per annum or otherwise in gross, or by way of commutation or composition for payment, or in lieu of all or any municipal rates or assessments, to be imposed by such municipal corporation, and for such term of years, as such municipal corporation may deem expedient, not exceeding twenty-one years.

Exemption from taxation.

29. It shall and may be lawful for the council of any municipality, that may grant a bonus to the company (and they shall

Extension of time for completion.

shall have full power), to extend the time for the completion of the works, on the completion of which the said company would be entitled to such bonus.

Extension of
time for com-
mencement.

30. The councils for all corporations that may grant aid by way of bonus to the said company, may by resolution or by-law, extend the time for the commencement of the work beyond that stipulated for in the by-law, or by-laws, granting such aid from time to time: Provided that no such extension shall be for a longer period than one year.

Trustees of
debentures.

31. Whenever any municipality, or portion of a township municipality, shall grant aid by way of bonus or gift to the railway company, the debentures therefor shall, within six months after the passing of the by-law authorizing the same, be delivered to three trustees to be named, one by the Lieutenant-Governor in Council, one by the said company, and one by the majority of the heads of the municipalities which have granted bonuses, all of the trustees to be residents of the Province of Ontario: Provided that if the said heads of the municipalities shall refuse or neglect to name such trustee within one month after notice in writing of the appointment of the company's trustee, or if the Lieutenant-Governor in Council shall omit to name such trustee, within one month after notice in writing to him of the appointment of the other trustees, then in either case the company shall be at liberty to name such other trustee or other trustees; any of the said trustees may be removed, and a new trustee appointed in his place, at any time by the Lieutenant-Governor in Council, and in case any trustee dies or resigns his trust, or goes to live out of the Province of Ontario, or otherwise becomes incapable to act, his trusteeship shall become vacant and a new trustee may be appointed by the Lieutenant-Governor in Council.

Proviso.

Trusts of
debentures.

32. The said trustees shall receive the said debentures or bonds in trust, firstly, under the directions of the company, but subject to the conditions of the by-law, in relation thereto, as to time or manner to convert the same into money or otherwise dispose of them; secondly, to deposit the debentures or amount realized from the sale in some chartered bank having an office in the Province of Ontario, in the name of "The St. Catharines and Niagara Central Railway Municipal Trust Account," and to pay the same out to the said company from time to time as the said company becomes entitled thereto under the conditions of the by-law granting the said bonus and on the certificate of the chief engineer of the said railway for the time being in the form set out in the Schedule "A" hereto, or to the like effect, which certificate shall set forth that the conditions of the by-law have been complied with, and is to be attached to the cheque or order drawn by the said trustees for such payments or delivery of debentures, and such engineer shall not wrongfully grant any such certificate under a penalty of five hundred dollars

dollars, recoverable in any court of competent jurisdiction by any person who may sue therefor.

33. The trustees shall be entitled to their reasonable fees ^{Fees to} and charges from said trust fund, and the act of any two of ^{trustees.} such trustees shall be as valid and binding as if the three had agreed.

34. The corporation of any municipality through which the said railway may pass is empowered to grant, by way of gift, ^{Power to receive grants of land and dispose of same.} to the said company, any lands belonging to such municipality which may be required for right of way, station grounds, or other purposes connected with the running or traffic of the said railway, and the said railway company shall have power to accept gifts of land from any government, or any person, or body politic or corporate, and shall have power to sell or otherwise dispose of the same for the benefit of the said company, and it shall be lawful for any municipality through which the said railway passes, and having jurisdiction in the premises, to pass a by-law, or by-laws, empowering the said company to make their road and lay their rails along any of the highways within such municipality.

35. The directors of the said company, after the sanction of ^{Issue of bonds.} the shareholders shall have been first obtained at any special general meeting, to be called from time to time for such purpose, shall have power to issue bonds, made and signed by the president and vice-president of the said company and countersigned by the secretary and under the seal of the said company, for the purpose of raising money for prosecuting the said undertaking, and such bonds shall without registration or formal conveyance be taken and considered to be the first and preferential claims and charges upon the undertaking, and the real property of the company, including its rolling stock and equipments, then existing and at any time thereafter acquired, and each holder of the said bonds shall be deemed to be a mortgagee and incumbrancer *pro rata* with all the other holders thereof, upon the undertaking and property of the said company as aforesaid : Provided, however, that the ^{Proviso.} whole amount of such issue of bonds shall not exceed ten thousand dollars per mile of the said railway: Provided further ^{Proviso.} that in the event at any time of the interest upon the said bonds remaining unpaid and owing, then, at the next general annual meeting of the said company, all holders of bonds shall have and possess the same rights, privileges and qualifications for directors and for voting as are attached to shareholders; Provided that the bonds and any transfers thereof shall have ^{Proviso.} been first registered in the same manner as is provided for the registration of shares, and it shall be the duty of the secretary of the company to register the same on being required to do so by any holder thereof.

Bonds, etc.,
may be made
payable to
bearer.

36. All such bonds, debentures, and other securities, and coupons, and interest warrants thereon respectively may be made payable to bearer, and transferable by delivery, and any holder of any such securities so made payable to bearer may sue at law thereon in his own name.

Promissory
notes, etc.

37. The said company shall have power and authority to become parties to promissory notes and bills of exchange for sums not less than one hundred dollars, and any such promissory note made or indorsed by the president of the company and countersigned by the secretary of the said company, and under the authority of a quorum of the directors, shall be binding on the said company, and every such promissory note or bill of exchange so made, shall be presumed to have been made with proper authority, until the contrary be shown, and in no case shall it be necessary to have the seal of the said company affixed to such promissory note or bill of exchange, nor shall the president or secretary be individually responsible for the same, unless the said promissory notes or bills of exchange have been issued without the sanction and authority of the directors as herein provided and enacted: Provided, however, that nothing in this section shall be construed to authorize the said company to issue any note or bill of exchange, payable to bearer or intended to be circulated as money or as the notes or bills of a bank.

Proviso.

Form of con-
veyance.

38. Conveyances of land to the said company for the purposes of the said railway, under the powers given by this Act, made in the form set out in Schedule "B," hereto annexed, or the like effect, shall be sufficient conveyance to the said company, their successors and assigns of the estate or interest and sufficient bar of dower respectively of all persons executing the same, and such conveyances shall be registered in such manner and upon such proof of execution as is required under the Registry law of Ontario, and no Registrar shall be entitled to demand more than seventy-five cents for registering the same, including all entries and certificates thereof, and certificates indorsed on the duplicate thereof.

Acquiring
gravel, etc., for
construction
of railway.

39. When stone, gravel, earth or sand is or are required for the construction or maintenance of said railway, or any part thereof, the company may, in case they cannot agree with the owner of the lands on which the same are situate for the purchase thereof, cause a provincial surveyor to make a map and description of the property so required, and they shall serve a copy thereof, with their notice of arbitration, as in case of acquiring the roadway, and the notice of arbitration, the award and the tender of the compensation, shall have the same effect as in case of arbitration for the roadway; and all the provisions of the Railway Act, and of this Act, as to the service of the said notice, arbitration, compensation, deeds, payment of money into court, the right to sell, the
right

right to convey, and the parties from whom lands may be taken, or who may sell, shall apply to the subject matter of this section, as to the obtaining materials as aforesaid; and such proceedings may be had by the said company, either for the right to the fee simple in the land from which said materials shall be taken, or for the right to take materials for any time they shall think necessary; the notice of arbitration, in case arbitration is resorted to, to state the interest required.

40. When said gravel, stone, or other material, shall be taken under the preceding section of this Act, at a distance from the line of the railway, the company may lay down the necessary sidings, and tracks over any lands which may intervene, between the railway and the lands on which said material shall be found, whatever the distance may be, and all the provisions of the Railway Act, and of this Act, except such as relate to filing plans and publication of notice, shall apply and may be used and exercised to obtain the right of way, from the railway to the land on which such materials are situated, and such right may be so acquired for a term of years or permanently, as the company may think proper, and the powers in this and the preceding section, may at all times be exercised and used in all respects, after the railway is constructed, for the purpose of repairing or maintaining the said railway;

Sidings to gravel pits, &c.

(2) When estimating the damages for the taking of gravel, sand, stone, or earth, sub-section eight of section twenty of the Railway Act of Ontario shall not apply.

41. Whenever it shall be necessary for the purpose of procuring sufficient lands for stations, or gravel pits, or for right of way for constructing, maintaining, and using said railway, and in case by purchasing the whole of any lot or parcel of land over which the railway is to run, the company can obtain the same at a more reasonable price, or to greater advantage, than by purchasing the required part only, the company may purchase, use, hold, and enjoy such lands and also the right of way thereto, if the same be separated from their railway, and sell and convey the same or parts thereof from time to time as they may deem expedient, but the compulsory clauses of the Railway Act shall not apply to this section.

Power to acquire more land than required for railway.

42. The company incorporated by this Act may enter into any arrangement with any other railway company or companies, duly authorized in that behalf, for the working of the said railway or any part thereof on such terms and conditions as the directors of the several companies may agree upon, or for leasing or hiring from such other company or companies, duly authorized, their railway or any portion thereof, or for the purchase of the same or any part thereof, or the use thereof, or for the purpose of acquiring running powers over any railway, or for leasing or hiring any locomotives or other moveable

Agreements with other companies.

Proviso.

moveable property from such company or persons, and generally to make any agreements with any other company so duly authorized, touching the use by one or the other or by both companies of the railways or rolling stock, or either, or both, or any part thereof, or touching any service to be rendered by one company to the other, and the compensation therefor, and any such agreement shall be valid and binding according to the terms and tenor thereof: Provided that the assent of at least two-thirds of the shareholders shall be first obtained at a general special meeting to be called for the purpose, according to the by-laws of the company and provisions of this Act, and the company or companies entering into agreement for using the said line may and are hereby authorized to work the said railway in the same manner and in all respects as if incorporated with their own line; but this section shall not be construed as purporting or intending to confer rights or powers upon any company which is not within the legislative authority of this Province.

Transfer of shares.

43. Shares in the capital stock of the company may be transferred by any form of instrument in writing, but no transfer shall become effectual unless the stock or scrip certificates issued in respect of shares intended to be transferred are surrendered to the company, or the surrender thereof dispensed with by the company.

Subscriptions for stock not binding, when.

44. No subscription for stock in the capital of the company shall be binding on the company unless ten per centum of the amount subscribed has been actually paid thereon within one month after subscription.

Power to mortgage bonds.

45. The said company hereby incorporated may from time to time, for advances of money to be made thereon, mortgage or pledge any bonds which they can under the powers of this Act issue for the construction of the railway or otherwise.

Application of sums paid into the bank for calls.

46. Sums paid into the bank in respect of calls upon capital stock, shall not be withdrawn except for the purposes of this Act.

Powers of municipalities as to taking stock, etc., not affected.

47. Nothing in this Act shall prevent any municipality from subscribing for stock of the company, nor from making loans of money or credit, pursuant to the Railway Act or the Municipal Act.

Municipal directors.

48. Any municipal council of a municipality which has given a bonus in aid of the said railway or its branches amounting to not less than ten thousand dollars shall be entitled to appoint a person annually to be a director of the company, and such person shall be a director of the company, in addition to all the other directors authorized by this Act or the general Railway Act, or any other Act, but such municipality shall incur no liability by the appointment of such director.

49.

49. For the purpose of constructing, working and protecting the telegraph lines constructed by the company, under this Act on their line of railway, the powers conferred upon telegraph companies, by the Act respecting electric telegraph companies are hereby conferred upon the company, and the other provisions of the said Act for the working and protection of telegraph lines shall apply to any such telegraph lines constructed by the company.

Telegraph lines.

50. The company shall have the power to purchase such land as may be required for the purpose of erecting thereon such warehouses, elevators, docks, stations, workshops, and other buildings as may be found necessary to facilitate the working and running of the said railway, and from time to time to sell and convey such portion or portions of said land as may not be required for the purposes aforesaid; and the company shall also have power to acquire and hold such steam and other vessels as may be required to facilitate the carriage of passengers, freight, and other traffic in connection with the said railway.

Power to acquire lands for warehouses, etc.

51. The said railway company shall at all times receive and carry cordwood, or any wood for fuel, at a rate not exceeding, for dry wood, three cents per mile per cord from all stations in full car loads, and for green wood three cents per ton per mile. The company shall further, at all times, furnish every facility necessary for the free and unrestrained traffic in cordwood, to as large an extent as in the case of other freight carried over the said railway: Provided always that the owner, consignor or consignee of the said wood shall load and unload the same on or off the cars of the said company, or cause the same to be done, at the expense of the said owner, consignor or consignee, and in case any car is detained more than twenty-four hours after its arrival at its destination without being unloaded by the owner, consignor or consignee, then it shall and may be lawful for the said company to charge demurrage. Cordwood or wood for fuel cut before the first day of March in any year, shall be deemed for the purposes of this Act dry wood by the first day of October following and not before.

Rates for carriage of cordwood.

Proviso.

52. The railway shall be commenced within five years and completed within eight years after the passing of this Act.

Commencement and completion of railway.

53. The said company is hereby authorized and empowered to take and make the surveys and levels of the land through which the said railway is to pass, together with the map or plan thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, so far as then ascertained, and also the book of reference for the railway, and to deposit the same as required by the clauses of the Railway Act of Ontario and amendments thereto with respect to plans and surveys, by sections or portions less than the length of the

Plans and books of reference for construction of railway in sections.

the whole railway authorized, of such length as the said company may from time to time see fit so that no one of such sections or portions shall be less than ten miles in length, and upon such deposit as aforesaid of the map or plan and book of reference of any and each of such sections or portions of the said railway, all and every of the clauses of the Railway Act, and the amendments thereof applied to, included in, or incorporated with the Act incorporating the said railway company, and the amendments thereto or otherwise applicable to the said railway company shall apply and extend to any and each of such sections or portions of the said railway as fully and effectually as if the surveys and levels had been taken and made of the lands through which the whole of the said railway is to pass, together with the map or plan of the whole thereof, and of the whole course and direction of the lands intended to be passed over and taken, and the book of reference for the whole of the said railway had been taken, made, examined, certified and deposited according to the said clauses of the said Railway Act, and the amendments thereof, with respect to plans and surveys.

SCHEDULE "A."

(Section 32.)

Chief Engineer's Certificate.

THE ST. CATHARINES AND NIAGARA CENTRAL RAILWAY COMPANY'S OFFICE.

No. *Engineer's Department,* A.D. 188

Certificate to be attached to cheques drawn on the St. Catharines and Niagara Central Railway Company Municipal Trust Account, given under section chapter of the Acts of the Legislature of Ontario, passed in the year of Her Majesty's reign.

I, A.B., Chief Engineer for the St. Catharines and Niagara Central Railway Company, do certify that the said company has fulfilled the terms and conditions necessary to be fulfilled under the by-law, No. of the Township of (or under the agreement dated the day of between the corporation of and the said company) to entitle the said company to receive from the said trust the sum of (here set out the terms and conditions, if any, which have been fulfilled).

SCHEDULE

SCHEDULE B.

(Section 38.)

Know all men by these presents that I (or we) (*insert the names of the vendors*) in consideration of dollars paid to me (or us) by the St. Catharines and Niagara Central Railway Company, the receipt whereof is hereby acknowledged, do grant and convey, and I (or we) in consideration of dollars paid to me (or us) by the said Company, the receipt whereof is hereby acknowledged, do grant, or release all that certain parcel (or those certain parcels, *as the case may be*) of land (*describe the lands*) the same having been selected and laid out by the said company for the purposes of their railway to hold with the appurtenances unto the said St. Catharines and Niagara Central Railway Company, their successors and assigns (*here insert any other clauses, covenants, or conditions required*) and I (or we) the wife (or wives) of the said do hereby bar my (or our) dower in the said lands. As witness my (or our) hand and seal (or hands and seals) this day of A.D. 188 .

Signed, sealed and delivered }
in presence of }

CHAPTER 74.

An Act to amend the several Acts relating to the
Toronto, Grey and Bruce Railway Company.

[Assented to 4th March, 1881.]

WHEREAS the Toronto, Grey and Bruce Railway Company Preamble. have by their petition prayed for certain amendments to their several Acts and for power to create a preferential issue of bonds or debenture stock, to re-arrange their bonded debt, and for authority to enter into an arrangement with another railway company for the working of their railway and for other purposes, and it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The said company may, with the consent of two-thirds in value of those holders of the terminable bonds or debenture stock of the said company heretofore issued, present in person or represented by proxy, at a meeting to be specially called for that purpose, in the same manner as provided for by Issue of preference debenture stock or preference terminable bonds authorized.

g2

sub-sections

sub-sections one and two of section one of the Act passed in the forty-third year of Her Majesty's reign, and chaptered sixty-six, issue a preference perpetual debenture stock, hereinafter called preference debenture stock, or preference terminable bonds, for an amount not exceeding one million of dollars, and may make the interest on such preference debenture stock or preference terminable bonds, payable in London, England, or elsewhere, as the company may think expedient; the said preference debenture stock or preference terminable bonds to bear interest at such rate or rates as the company may determine, not exceeding five per centum per annum, payable half-yearly, and the company may make the preference terminable bonds for such amounts not less than one hundred pounds each, and payable at such dates and places as they may deem advisable, and such preference debenture stock and preference terminable bonds shall, without registration in any city or county registry office or formal conveyance, be a first mortgage and charge, prior to all other charges thereon, upon the Toronto, Grey and Bruce Railway and upon all and every the undertaking, and upon the real property of the company, and the rolling stock and equipments then existing, and at any time thereafter acquired, and upon the franchises of the company, and each holder of the said preference debenture stock and preference terminable bonds, or either of them, shall be deemed to be a mortgagee and incumbrancer *pro rata* with all other holders thereof upon the aforesaid undertaking and property of the company, and the franchises of the company as aforesaid, ranking equally with the other, notwithstanding any difference in date of issue, in priority to all other charges and incumbrances, including all bonds or debenture stock heretofore issued or authorized.

Company to
keep registers
of debenture
stock ;

2. Such preference debenture stock and the debenture stock authorized under the Act passed in the forty-third year of Her Majesty's reign, and chaptered sixty-six, which from time to time shall be created, shall be entered by the company in separate registers, to be kept for that purpose at their office in Toronto, wherein they shall enter the names and addresses of the several persons and corporations, from time to time, entitled to either of such preference debenture stock or debenture stock, as the case may be, with the respective amounts of the stock to which they are respectively entitled, and the said company may also open registers for the same purpose in Great Britain.

And give cer-
tificates to
holders of such
stock.

3. The company shall deliver to every holder a certificate stating the amount of preference debenture stock or debenture stock, held by him, as the case may be, and all regulations or provisions for the time being applicable to certificates of ordinary shares of the capital of the company and transfer of such shares, shall apply *mutatis mutandis* to certificates and transfers of the preference debenture stock, or debenture stock, subject

subject to the provisions of this Act: Provided the company shall not be bound to accept any such transfer, nor shall any such transfer be effectual unless and until the scrip or certificate before issued for the preference debenture stock, or debenture stock proposed to be transferred, be delivered up to be cancelled, or such delivery and cancellation dispensed with by the company, and a new certificate or certificates issued in lieu thereof.

4. The directors of the company may, subject to the rules and regulations from time to time of the board, appoint an agent in the city of London, England, with power to pay dividends, to open and keep books of transfer and registers for the shares of the capital-stock of the company, and also keep books of transfer and registers for the preference debenture stock and debenture stock of the company, and for the issue of scrip and stock certificates, and thereupon the registry of any shares, preference debenture stock or debenture stock, may be transferred from the office of the said company in Toronto, to the London office, and there registered in the name of the holder; and transfers of such shares, preference debenture stock, and debenture stock may then be made in the same manner as shares and debenture stocks may be transferred in the former office, and such shares or any of them or debenture stock may be retransferred to the office in Toronto; and the agent or agents, or other officer or officers in London, shall transmit an accurate list of all such transfers and scrip certificates so issued to the secretary or other officer of the company in Toronto, who shall thereupon make the requisite entries respecting such transfer, transfers and scrip certificate and certificates in the registers kept in this province, and thereupon the same shall be binding on the company as to all the rights and privileges of shareholders and preference debenture stock-holders, and debenture stock-holders, as though the scrip certificates had been issued by the secretary of the company in Toronto.

Company may appoint an agent in England with power to keep books of transfer, etc.

5. The said preference debenture stock or other debenture stock respectively, shall not be transferable in amounts less than one hundred pounds sterling, and no transfer shall include any fractional part of ten pounds sterling; and section nine of the Act passed in the forty-third year of Her Majesty's reign, and chaptered sixty-six, is hereby amended accordingly.

43 Vic., c. 66, s. 9, amended.

6. All transfers of all classes of debenture stock of the company may be registered at the office of the company at Toronto, in Canada, or in any office of the company which may be established in Great Britain, and at both of such places.

Where transfers of debenture stock may be registered.

7. The directors may, from time to time make such regulations as they may think fit for facilitating the transfer and registration of shares of the capital stock, preference debenture stock and debenture stock, and the forms in respect thereof, as well in

Directors may make regulations for facilitating transfers of stock, etc.

in this Province as elsewhere, and as to the closing of the registers and transfer books for the purpose of dividends as they may find expedient, and all such regulations not being inconsistent with this Act, and with the Ontario Railway Act as altered or modified by this Act, shall be valid and binding.

Company to have all necessary powers for issue of preference stock, etc.

8. The said company shall have all the powers necessary for the issue of the said preference debenture stock or terminable bonds authorized by this Act, and for carrying out the objects of this Act in respect thereof.

Debenture stock, etc., to be personal estate.

9. The said preference debenture stock, preference terminable bonds, and all other debenture stock and bonds issued or to be issued by the said railway company, shall be deemed to be and are hereby declared to be personal estate.

Sale or mortgage of preference debenture stock and bonds authorized.

10. The said company shall have the right to sell such preference debenture stock, and preference terminable bonds, at such prices as they may deem expedient, and shall also have the right to mortgage, pledge and hypothecate the same for any advance made to the company.

Application of moneys.

11. The money to be realized from the sale of, or raised by mortgaging, pledging or hypothecating the said preference debenture stock and preference terminable bonds, shall be applied towards the cost of changing the gauge and reconstructing and equipping the said railway, and for such other purposes as the directors may deem expedient.

If interest on preference debenture stock or bonds not paid holders thereof to have rights of shareholders.

12. In case the interest be not paid on the said preference debenture stock or preference terminable bonds at the rate of at least five per cent. in any year, then at the next and at all subsequent, general, annual, or semi-annual meetings or special general meetings of the company, all holders of said preference debenture stock or preference terminable bonds shall have and possess the same rights and privileges and qualifications for acting and voting as shareholders for directors and of being elected as directors, as belong to ordinary shareholders; and subsection two of section fifteen of the Act passed in the forty-third year of Her Majesty's reign, and chaptered sixty-six, is hereby extended by adding thereto after the words "debenture stock-holders" in the third line, and in the fifth line the words "preference debenture stock-holders and preference terminable bondholders," provided that their preference debenture stock and preference terminable bonds and any transfers thereof be first registered in the same manner as is provided for the registration of the ordinary shares.

43 Vic., c. 66, s. 15, sub-s. 2, amended.

41 Vic., c. 55, ss. 1-6, and 43 Vic., c. 66, s. 16 repealed.

13. And whereas no postal bonds and no second mortgage bonds have been issued under the powers conferred by the Act passed in the forty-first year of Her Majesty's reign, and chaptered fifty-five, such powers are hereby annulled, and sections one, two, three, four, five and six of that Act, and section sixteen

teen of the Act passed in the forty-third year of Her Majesty's reign, and chaptered sixty-six, are hereby repealed.

14. The said company may enter into any agreement with any other railway company or companies, whether subject to the legislative authority of this province or otherwise, which is or are lawfully empowered to enter into any such agreement, for the leasing or working of the said railway, on such terms and conditions as the directors of the respective companies may agree upon, or for the construction, partial construction, or reconstruction thereof, or for leasing or hiring from such other company or companies any portion of their railway, or the use thereof, or for the leasing or hiring any locomotives, rolling stock or other property from such companies or persons, and generally to make any agreement or agreements with any other company or companies touching the use by one or the other company or by both companies of the railway, or rolling stock of either, or both, or any part thereof, or touching any service to be rendered by one company to the other, and the compensation therefor, and such agreement shall be valid and binding according to the law and tenor thereof: Agreements with other companies. Provided that assent Proviso. be given thereto by at least two-thirds of the shareholders present, or represented by proxy at any meeting specially called for the purpose, according to the by-laws of the company; and the company or companies leasing or entering into any such agreement for using or working the said railway may, and are hereby authorized, to work the said railway in the same manner as if incorporated with their own railway, and with the same rights, powers and privileges as they possess in respect thereof: And provided this section shall not be construed as Proviso. conferring power upon any other company to enter into agreements as aforesaid, unless such company has such power under the Act of incorporation or other Acts relating to such company: And provided also, that this section shall not be construed as authorizing, and the said company shall not enter into, Proviso. an agreement as aforesaid with the Northern Railway Company of Canada, or with the Hamilton and North Western Railway Company or Great Western Railway Company, unless with the consent of the Lieutenant-Governor in Council; and before such consent shall be given by the Lieutenant-Governor in council the municipalities which have granted bonuses in aid of the Toronto Grey and Bruce Railway Company shall be notified.

15. All by-laws passed by any municipality, for the purpose of aiding the said Toronto, Grey and Bruce Railway Company under the provisions of the Act passed in the forty-third year of Her Majesty's reign, chaptered sixty-six, and all debentures issued, or to be issued, under such by-law or by-laws, shall be and are hereby declared legal and valid: By-laws aiding company confirmed. Provided Proviso. such by-law or by-laws have been carried by a majority of the legally qualified ratepayers, who have voted thereon.

CHAPTER

CHAPTER 75.

An Act respecting the Toronto and Nipissing Eastern Extension Railway Company.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the Toronto and Nipissing Eastern Extension Railway Company has petitioned the Legislature for certain amendments to its Act of incorporation, and it is expedient to grant the prayer of said petition ;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

43 V., c. 67, s. 36, repealed.

1. The thirty-sixth section of the Act passed in the forty-third year of Her Majesty's reign, and chaptered sixty-seven, is hereby repealed.

Agreements with other companies.

2. It shall be lawful for the said company to enter into any agreement with any other railway company, duly authorized in that behalf, for selling, leasing or hiring this road or any part thereof, or for buying, leasing or hiring from such other company, any railway or part thereof, or any locomotives, tenders or moveable property, and generally to make any agreement or agreements with such other company for the amalgamation or use by one or the other or by both companies, of the railway or moveable property of either or of both or any part thereof, or for any service to be rendered by the one company to the other, and the compensation therefor, and every such agreement shall be valid and binding, and shall be enforced by courts of law according to the terms and tenor thereof, and in case of sale or lease, any company, duly authorized as aforesaid, buying or leasing the same shall be and is hereby empowered to exercise all the rights and privileges in this charter conferred: Provided always that before any such agreement for the sale, lease, hiring or amalgamation as aforesaid shall be binding, it shall be ratified by a vote of at least two-thirds of all the stock-holders legally entitled to vote; but this section shall not be construed as purporting or intending to confer rights or powers upon any company which is not within the Legislative authority of the Province.

43 V., c. 67, s. 30, amended.

3. The thirtieth section of the said Act is hereby amended by striking out the word "eight" in said section, and inserting in lieu thereof the word "fifteen."

CHAPTER 76.

An Act respecting the Toronto and Ottawa Railway Company.

[Assented to 4th March, 1881.]

WHEREAS the Toronto and Ottawa Railway Company have ^{Preamble.} petitioned for certain amendments to their Act of incorporation, and for increased powers to confirm certain by-laws granting aid to the said company, and for other purposes; and whereas it is expedient to grant the prayer of the said petition ;
Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. The by-law of the corporation of the city of Ottawa ^{By-law of city of Ottawa confirmed.} granting aid, by way of bonus, to the said company to the amount of two hundred thousand dollars, approved by the vote of the ratepayers of the city of Ottawa, on the thirtieth day of December, in the year of our Lord one thousand eight hundred and eighty, is hereby declared legal, valid, and binding, notwithstanding any defects of form or substance therein or in relation to the passing thereof: Provided always that the several provisoes, stipulations, conditions and restrictions with reference to the said railway or any part thereof, or the location, construction or maintenance thereof or otherwise contained in the said by-law of the city of Ottawa granting a bonus to the said company shall be at all times kept, observed, and performed by, and shall be obligatory and binding upon, the said company notwithstanding anything in this Act to the contrary.

2. It shall and may be lawful for the council of any city ^{Municipal councils empowered to allow rails to be laid on highways.} or town through which or any part of which the said railway or any part thereof passes, and having jurisdiction in the premises, to pass a by-law or by-laws empowering the said company to make their road and lay their rails along any of the highways within such municipality: Provided always that before any such by-law shall be passed notice shall be given by the said company of their intention to apply to the council for the passage of the same, which notice shall be inserted at least once a week for two weeks in some newspaper published within the municipality within which such highway is situated.

CHAPTER 77.

An Act to amend the Acts respecting the Trent Valley Railway Company.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the Trent Valley Railway Company have prayed for certain amendments to their Act of incorporation, passed in the thirty-sixth year of the reign of Her Majesty Queen Victoria, and chaptered seventy-six, and amended by an Act passed in the thirty-eighth year of the reign of Her Majesty Queen Victoria, and chaptered fifty-eight, and further amended by an Act passed in the forty-third year of the reign of Her Majesty Queen Victoria, and chaptered sixty-nine; and, whereas, there was deposited in the Canadian Bank of Commerce, at Belleville, five thousand dollars on account of subscriptions for shares in the capital stock of the said company, and the money, with accrued interest thereon, is still on deposit in said bank to the credit of the said company; and, whereas, Edward Oscar Bickford, esquire, claims to be the holder of four hundred and fifty shares of the said capital stock and to have some claim upon fifty other shares of the said capital stock, and it has been agreed between the said Bickford and the provisional directors of the said company, that the said Bickford shall assign the said four hundred and fifty shares, and all his claim upon the said fifty shares to Henry W. Day, esquire, mayor of the town of Trenton, in trust, on receiving five thousand dollars out of the moneys so on deposit in the said Canadian Bank of Commerce, and it is expedient to grant the prayer of the said petition, and to confirm the said agreement and give the necessary power to carry out the same.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts at follows:—

Words "town of Trenton" substituted for "village of Trenton" in Acts relating to railway.

Terms on which certain moneys to be paid to E. O. Bickford.

1. The words "village of Trenton," wheresoever the same may occur in said Act of incorporation, and in said amendments thereto, are hereby struck out, and the words "town of Trenton" inserted and substituted therefor.

2. The provisional directors of the said company (or a quorum of not less than four) may, by resolution, authorize the Canadian Bank of Commerce to pay, and the said bank shall thereupon pay to Edward Oscar Bickford, esquire, out of the moneys on deposit in the said bank at Belleville, to the credit of the said company, five thousand dollars, on his depositing with them a valid assignment to Henry W. Day, esquire, mayor of Trenton, in trust, of four hundred and fifty shares in the

the capital stock of the said company, and of all the right, claim, and interest of the said Bickford, in and to any other shares in said capital stock, with the necessary proof of his title to said four hundred and fifty shares, and after such assignment has been so executed and delivered, neither the said Edward Oscar Bickford, or the said Henry W. Day, shall be liable for any calls in respect of the said stock so assigned in trust.

3. The balance of the moneys in the said Canadian Bank of Commerce to the credit of the said company, shall be distributed by the said provisional directors (or a quorum of not less than four) ratably among such creditors of the company as shall, within three months after the passing of this Act, have proved their claims as creditors of the said company to the satisfaction of the judge of the county court of the county of Prince Edward, who is hereby authorized finally to adjudicate upon all such claims and report to the said provisional directors the amount of each such proved claim, notwithstanding that no suit may be pending in respect thereof; and the said provisional directors (or a quorum of four) may, by resolution, authorize the withdrawal of the said moneys from the said bank for the purpose aforesaid, and the said bank shall pay the same in accordance with the terms of such resolution, and upon payment in full of the balance at the credit of the company the said bank shall cease to be liable to any person in respect of the said deposit, or the accrued interest thereon, or any deposit receipt or other voucher given in respect thereof.

Payment to
creditors of
company.

CHAPTER 78.

An Act to incorporate the Weston and Duffin's Creek Railway.

[Assented to 4th March, 1881.]

WHEREAS Alexander Manning, Joseph Upper, P. D. Conger, David Tisdale, and William Scully, have petitioned for an Act to incorporate a company to construct a railway from some point at or near the Weston station of the Grand Trunk Railway of Canada, in the township of York, to some point in the township of Pickering, on the line of the Grand Trunk Railway of Canada, near the Duffin's Creek station of the said railway, with power to connect with the said railway and with other railways, and for other purposes; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1.

Incorporation. 1. Alexander Manning, of the city of Toronto, contractor; Joseph Upper, of the city of Kingston, contractor; P. D. Conger, of the city of Toronto, merchant; David Tisdale, of the town of Simcoe, esquire, and William Scully, of the city of Toronto, commission merchant, together with such persons and corporations as shall, in pursuance of this Act, become shareholders of the company hereby incorporated, are hereby declared to be a body corporate and politic, by the name of "The Weston and Duffin's Creek Railway Company."

Name.

Location of line. 2. The said company shall have full power and authority under this Act to construct a railway from a point at or near the village of Weston, in the township of York, in the county of York, with power to connect at such point with the Grand Trunk Railway of Canada, from thence crossing the Toronto, Grey and Bruce Railway at a point near Weston, with power to connect at such point with said Toronto, Grey and Bruce Railway; from thence, crossing the Northern Railway of Canada, at or near the Weston Station thereof, with power to connect at such point with the said Northern Railway; from thence, crossing Yonge street at a point north of the village of Eglinton, and from thence, in an easterly direction to a point north of the Scarborough station, on the Toronto and Nipissing Railway, with power to connect at such point with said Toronto and Nipissing Railway; from thence, to a point on the line of the Grand Trunk Railway, near Duffin's Creek Station, with power to connect at such point with said Grand Trunk Railway, with the right to connect with any other lines of railway running into the city of Toronto from the north and east which may be hereafter constructed and which may cross this railway: Provided that if the said line of railway cross Yonge street at a point south of York Mills, the said company shall at all times when trains shall be running over their line, erect, maintain and keep suitable gates and watchmen at the point where the said railway shall cross Yonge street.

Proviso.

Gauge. 3. The said company may construct their said line upon such gauges that the rolling stock of all or any of the above-mentioned roads shall be able to pass over the same.

Provisional directors and their powers. 4. From and after the passing of this Act, the said Alexander Manning, Joseph Upper, P. D. Conger, David Tisdale, and William Scully, until others be chosen as hereinafter provided at the first general meeting, shall be and are hereby constituted the board of provisional directors of the said company (of which the said Alexander Manning shall be chairman), with power to fill vacancies occurring thereon; to associate with themselves thereon, not more than three others, who upon being so named, shall also become and be provisional directors, equally with themselves; and they shall have power and authority, immediately after the passing of this Act, to open stock books, and receive subscriptions of stock for the undertaking, and

and in so doing may exclude any person from subscribing, who in their judgment would hinder or delay the company from proceeding with the railway; and may allot and apportion the stock amongst the subscribers, as to them may seem meet, and may cause surveys and plans to be made and executed, and may enter into a contract or contracts for building the said railway, and may make a call or calls upon the shares subscribed therein, and may exercise all such other powers as under the said Railway Act or any other law in force in Ontario, are vested in such boards.

5. The capital of the company shall be three hundred thousand dollars, to be divided into three thousand shares of one hundred dollars each, with power to increase the same in the manner provided in the Railway Act of Ontario, and all moneys paid to the company in respect of such shares, shall be applied in the first place to the payment of all costs, charges, and expenses of and incidental to the obtaining of this Act, and of all expenses for making the surveys, plans and estimates connected with the works hereby authorized, and all the remainder of such money shall be applied to the making, equipment, and completion of the said railway, and to the other purposes of the company. .

6. As soon as shares to the amount of fifty thousand dollars of the capital stock of the company shall have been subscribed, and ten per centum thereof paid into some chartered bank having an office in the Province of Ontario, to the credit of the company, and which shall on no account be withdrawn therefrom unless for the services of the company, the directors shall call a general meeting of the subscribers to said capital stock, who shall have paid up ten per centum of the shares by them subscribed, for the purpose of electing directors of the company.

7. No subscription for stock in the capital of the company shall be valid, unless ten per centum thereof shall have been actually paid thereon within twenty days after the subscription, into some one of the chartered banks of this Province, to be designated by the provisional directors, to the credit of the company.

8. In case the provisional directors neglect to call a meeting for the space of three months after fifty thousand dollars of the capital stock has been subscribed, and ten per centum thereof so paid up, the same may be called by any three of the subscribers who shall have so paid up ten per centum, and who are subscribers among them for not less than five thousand dollars of the said capital stock, and who have paid up all calls thereon.

9. In either case notice of the time and place of holding such general meeting shall be given by publication in the *Ontario*

Capital.

First election of directors.

Ten per cent. to be paid on stock.

How general meeting may be called, if provisional directors neglect to call it.

Notice of time and place of meeting.

tario Gazette, and in at least one of the daily newspapers in the city of Toronto once in each week for the space of two weeks, and such meeting shall be held in the city of Toronto, at such place therein, and on such day as may be named by such notice.

Election of directors.

10. At such general meeting the subscribers for the capital stock assembled, who shall have paid up ten per centum thereof, with such proxies as may be present, shall choose five persons to be directors of the company, and may also make or pass such rules, regulations and by-laws as may be deemed expedient, provided they be not inconsistent with this Act.

Qualification of directors.

11. No person shall be qualified to be a director unless he be a shareholder holding at least fifty shares of stock in the company, upon which all calls have been paid up.

Annual meeting.

12. Thereafter the annual general meeting of the shareholders of the company shall be held at such place in the city of Toronto, and on such days and at such hours as may be directed by the by-laws of the company, and public notice shall be given at least two weeks previously in the *Ontario Gazette*, and once each week in at least one of the daily newspapers published in the city of Toronto.

Special general meetings.

13. Special general meetings of the shareholders of the said company, may be held at such places in the city of Toronto, and at such times and in such manner and for such purposes as may be provided by the by-laws of the company, and after two week's notice shall have been given, as in the last preceding section mentioned.

Issue of bonds.

14. The directors of the company, after the sanction of the shareholders shall have been first obtained at any special general meeting to be called from time to time for such purpose, shall have power and authority :—

(1) To make and issue first mortgage bonds and also second or income mortgage bonds, such issue not to exceed in the whole the sum of six hundred thousand dollars, for the general purposes of the company as the same may from time to time be required in such denominations, payable either in currency or in sterling, and at such place or places within this Province or without, and at such time or times, and bearing such rate of interest, and each bond for such an amount as may be deemed advisable, and for the purpose of securing the due payment of any issue thereof and the interest thereon, to mortgage to a trustee or trustees such portion of the line of railway and of the undertaking, and such of the real property including the rolling stock and equipments of the company whether then existing or to be thereafter acquired as may be mentioned in such mortgage ; and such mortgage bonds and all coupons

coupons and interest warrants thereon shall be payable to the bearer, and be transferable by delivery ;

(2) Every such mortgage to secure payment of first mortgage bonds shall be a lien and charge upon such portion of the line of railway and of the undertaking and such of the real property, including the rolling stock and other equipments of the company, whether then existing or to be thereafter acquired, as may be mentioned therein, in preference and priority to all other charges thereon, and every such mortgage for securing payment of second mortgage or income bonds shall be a lien and charge upon such portion of the line of railway, and of the undertaking, and such of the real property, including the rolling stock and equipments of the company, whether then existing or to be thereafter acquired, as may be mentioned therein, next after and subject only to the mortgage or mortgages securing first mortgage bonds ; and no more than one mortgage shall be made over the same portion of the line or over the undertaking and real property, including the rolling stock and equipment of the company, whether then existing or to be thereafter acquired, to secure the first mortgage bonds.

15. The company may, from time to time, for advances of money to be made thereon, mortgage or pledge any bonds which under the provisions of this Act can be issued for the construction of the said railway. Power to mortgage bonds.

16. The said company shall have power and authority to become parties to promissory notes and bills of exchange for sums not less than one hundred dollars ; and any such promissory note made or indorsed, or any such bill of exchange, drawn, accepted or indorsed by the president or vice-president of the company, and countersigned by the secretary and treasurer thereof, and under the authority of a quorum of the directors, shall be binding on the company ; and every such promissory note or bill of exchange so made, shall be presumed to have been made with the proper authority until the contrary be shewn ; and in no case shall it be necessary to have the seal of the said company affixed to such promissory note or bill of exchange, nor shall the president or vice-president, or the secretary or treasurer be individually responsible in respect of the same, unless the said promissory notes have been made or indorsed, or the said bills of exchange, drawn, accepted or indorsed without the sanction and authority of the board of directors, as herein provided and enacted : Provided, however, that nothing in this section shall be construed to authorize the said company to issue any note or bill of exchange, payable to bearer, or intended to be circulated as money or as the notes or bills of a bank. Negotiable instruments.

17. Every holder of one or more shares of the said capital stock, (and bondholders as provided in section fourteen of this Act Votes.

Act in the same ratio as shareholders), shall at any general meeting of the shareholders be entitled to one vote for every share held by him.

Corporations,
how represent-
ed.

18. At all meetings of the shareholders of the company, the stock held by municipal and other corporations may be represented by such persons as they shall respectively have appointed in that behalf by resolution under the seal of the corporation; and such persons shall at such meeting be entitled equally with other shareholders to vote by proxy; and no shareholder shall be entitled to vote on any matter whatever, unless all calls due on the stock held by such shareholder shall have been paid up at least one week before the day appointed for such meeting.

Quorum of
directors.

19. Any meeting of the directors of the said company regularly summoned, at which not less than three directors shall be present, shall be competent to exercise and use all and every of the powers by this Act vested in the said directors.

Calls.

20. Calls on the subscribed capital of the company may be made by the directors for the time being as they shall see fit; Provided that no calls shall be made at any one time of more than ten per centum of the amount subscribed by each subscriber, and at intervals of not less than one month.

Contracts for
construction.

21. It shall be lawful for the directors to enter into a contract or contracts with any individual or association of individuals, for the construction or equipment of the line, or any portion thereof, including or excluding the purchase of the right of way, and to pay therefor, either in the whole or in part, either in cash or bonds or in paid up stock: Provided that no such contract shall be of any force or validity till approved of by a majority of the shareholders, present in person or by proxy, at a meeting specially convened for considering the same.

Traffic ar-
rangements.

22. The company shall have power to make running arrangements with all or any of the above mentioned lines, or for crossing or connecting with the same, or for the conveyance or transit of traffic for or with the said companies, or any of them, if lawfully authorized in that behalf, or touching any service to be rendered by the one company to the other, and the compensation therefor, upon terms to be approved of by the board of directors.

Agreements
with other
companies.

23. The company is hereby authorized and empowered, if at any general meeting of the shareholders of the company called for that purpose, published and notified as prescribed by the provisions of this Act relating to notices of meetings of shareholders, the majority in value of the votes of the members of such meeting present in person or by proxy consent thereto, to enter into agreements with any other railway company or companies

companies which is or are lawfully empowered to enter into such agreements for building or leasing or equipment and maintenance of the said railway or any part thereof, or the use thereof at any time or times, or for any period to or by such other company or companies, or for leasing or hiring from such other company any railway or part thereof or the use thereof, or for the leasing or hiring any locomotives, tenders, rolling stock or moveable property, and generally to make any agreement or agreements with any such other company touching the use by one or the other or by both companies of the railway or moveable property of either, or of both or any part thereof, or touching any service to be rendered by the one company to the other, and the compensation therefor, and such other railway company as well as any other corporation may agree upon any terms, they may mutually consent to for the loan of its credit to, or may subscribe to or become the owner of the stock of the railway company hereby created in like manner and with the like rights as individuals, but in so far only as the powers hereby conferred, may be construed to have reference to any act, deed, matter or thing to be done, executed, fulfilled or performed within the limits of the Province of Ontario; and any such agreement shall be valid and binding, and shall be enforced by courts of law, according to the terms and tenor thereof; and any company or individual accepting or executing such lease shall be and is empowered to exercise all the rights and privileges by this Act conferred.

24. Whenever it shall be necessary for the purpose of procuring sufficient lands for stations, or gravel pits, or for right of way for constructing, maintaining, and using said railway, and in case by purchasing the whole of any lot or parcel of land over which the railway is to run, the company can obtain the same at a more reasonable price, or to greater advantage, than by purchasing the required part only, the company may purchase, use, hold, and enjoy such lands and also the right of way thereto, if the same be separated from their railway, and sell and convey the same or parts thereof from time to time as they may deem expedient; but the compulsory clauses of the Railway Act shall not apply to this section.

Power to acquire more land than required for railway.

25. Where stone, sand, gravel, or any other material, is or are required for the construction or maintenance of said railway, or any part thereof, or further land is required for the extension of stations, or for additional stations, the company may, in case they cannot agree with the owner of the lands on which the same are situated, or which are required for the purchase thereof, cause a provincial land surveyor to make a map and description of the property so required, and they shall serve a copy thereof, with their notice of arbitration, as in case of acquiring the roadway, and the notice of arbitration, the award and the tender of the compensation shall have the same effect as in the case of arbitration for the roadway; and

Procuring stone and gravel, etc.

and all the provisions of the Railway Act of Ontario, as to the service of the said notices, arbitration, compensation, deeds, payment of money into court, the right to sell, the right to convey, and the parties from whom lands may be taken, or who may sell, shall apply to the subject matter of this section, and to the obtaining materials and land as aforesaid; and such proceedings may be had by the said company, either for the right to the fee simple to the land which shall be taken, or for the right to the fee simple of the part taken for the purposes of stations, and the right to take material for any time they shall think necessary; the notice of arbitration, in case arbitration is resorted to, to state the interest required.

Right of way
to gravel pits.

26. When said gravel, sand, stone, or other material, shall be taken under the preceding section of this Act, at a distance from the line of the railway, the company may lay down the necessary siding and tracks over any lands which may intervene between the railway and the lands on which said material shall be found, whatever the distance may be; and all the provisions of the Railway Act, except such as relate to filing plans and publication of notice, shall apply and may be used and exercised to obtain the right of way from the railway to the land on which such materials are situated; and such right may be so acquired for a term of years, or permanently, as the company may think proper; and the powers in this and the preceding section may at all times be exercised and used in all respects, after the railway is constructed, for the purpose of repairing and maintaining the said railway, and the extension and additions to the stations thereof;

(2) When estimating the damages for the taking of gravel, stone, earth or sand, sub-section eight of section twenty of the Railway Act of Ontario, shall not apply.

Power to erect
warehouses,
etc.

27. The company shall have full power to purchase land for, and erect warehouses, elevators, stations, workshops, and offices, and to sell and convey such land as may be found superfluous for any such purpose.

Snow fences.

28. The company shall have the right, on and after the first day of November in each year, to enter into and upon any lands of Her Majesty, or into or upon any lands of any corporation or person whatsoever, lying along the route or line of said railway, and to erect and maintain snow fences thereon, subject to the payment of such damages (if any) as may be hereafter established in the manner provided by law in respect of such railway, to have been actually suffered: Provided always, that any such snow fences so erected shall be removed on or before the first day of April following.

Proviso.

Telegraph
lines.

29. For the purpose of constructing, working and protecting the telegraph lines constructed by the company, under this Act,

Act, on their line of railway, the powers conferred upon telegraph companies, by the Act respecting electric telegraph companies, are hereby conferred upon the company, and the other provisions of the said Act for the working and protection of telegraph lines shall apply to any such telegraph lines constructed by the company.

30. The construction of the said railway shall be commenced within two years, and the same shall be completed within five years after the passing of this Act. Time of construction.

31. Conveyances of land to the said company for the purposes of this Act, may be made in the form set out in the schedule hereunder written, or to the like effect; and such conveyances shall be received by the several registrars, and be registered by duplicate thereof, in such manner and upon such proof of execution as is required under the registry laws of Ontario; and no registrar shall be entitled to demand more than seventy-five cents for registering the same, including all entries and certificates thereof, and certificates indorsed on the duplicate thereof. Form of conveyances.

SCHEDULE.

(Section 31.)

Know all men by these presents, that I (or we [*insert also the name of the wife or other person who may be a party*] in consideration of _____ dollars paid to me (or us) (*as the case may be*) by the Weston and Duffin's Creek Railway Company, the receipt whereof is hereby acknowledged, do grant and convey [and I the said _____ do grant and release, or do bar my dower in, *as the case may be*] all that certain parcel (or those certain parcels *as the case may be*) of land situate (*describe the land*), the same having been selected and laid out by the said company for the purposes of their railway, to hold with the appurtenances unto the said "The Weston and Duffin's Creek Railway Company," their successors and assigns.

As witness my (or our) hand and seal (or hands and seals) this _____ day of _____ one thousand eight hundred and _____

Signed, sealed and delivered }
in the presence of }

[L.S.]

CHAPTER 79.

An Act respecting the Whitby, Port Perry and Lindsay Railway Company.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the Whitby, Port Perry and Lindsay Railway Company has extended its line to the town of Lindsay, and has prayed for an Act granting additional time for proceeding with further extensions, and for a change in its powers as to issuing mortgage bonds, and other powers; and whereas it is expedient to grant the prayer of such petition; and whereas by an Act of the Legislature of Ontario, passed in the forty-first year of Her Majesty's reign, and intituled an Act respecting the Whitby, Port Perry and Lindsay Railway Company, the total amount of first preferential mortgage bonds of the company was limited to the sum of ninety-four thousand five hundred pounds sterling money of Great Britain, and the total amount of second preferential mortgage bonds was limited to the sum of forty-seven thousand two hundred pounds of like money, and it is expedient to remove such limit;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Time extended.

1. The time for the completion of the extensions and branches of the company's line is hereby extended for six years from the passing of this Act.

Issue of "extension bonds" authorized.

2. It shall be lawful for the directors of the company, after the sanction of two-thirds in value of the shareholders shall have been first obtained, at any special general meeting to be called from time to time for such purpose, and they are hereby empowered to issue from time to time, as occasion may require for the purposes of the company, mortgage bonds, to be called and on their face declared to be "Extension Bonds," to any amount executed by the president or vice-president for the time being of the company, and countersigned by the secretary, and such bonds may be payable to bearer in London, England, or elsewhere, as the directors think expedient, and may be assignable by delivery; but the total amount of such extension bonds, so allowed to be issued, shall not exceed fifteen thousand dollars for each mile of the company's line hereafter constructed, and said extension bonds shall, without registration or formal conveyance, be taken and considered to be first and preferential claims and charges only upon such extension and branches of the line as shall hereafter be constructed, and each holder of said extension bonds shall

shall be deemed to be a mortgagee and incumbrancer *pro rata* with all the other holders of such extension bonds upon the said extension and branches only.

3. The company may from time to time, for advances of money to be made thereon, mortgage or pledge any of such extension bonds for the construction of said extension or branches.

Power to
pledge such
bonds.

4. The directors may with the like sanction, and having first procured the written consent of all holders of the now outstanding mortgage bonds of the company, pay off the now outstanding mortgage bonds issued by the company, and in lieu thereof issue for the purposes of the company from time to time, as occasion may require, other mortgage bonds to any amount, executed, payable, and assignable as aforesaid, to be called first preferential mortgage bonds; but the total amount of such first preferential mortgage bonds shall not exceed seven hundred thousand dollars, and such first preferential mortgage bonds shall, without registration or formal conveyance, be taken and considered to be first and preferential claims and charges upon the railway and property of the railway in and from Port Whitby to and in the town of Lindsay, and each holder of said first preferential mortgage bonds shall be deemed to be a mortgagee and incumbrancer *pro rata* with all the other holders thereof upon the railway and railway property in and from Port Whitby to and in the town of Lindsay.

Power to call
in existing
bonds and
issue others, to
be a first
charge on line
from Port
Whitby to
Lindsay.

5. In lieu of issuing such extension bonds, or first preferential mortgage bonds, it shall be lawful for the directors, with the like sanction and consent, to pay off all now outstanding mortgage bonds issued by the company, and after such payment, to issue from time to time, as occasion may require, mortgage bonds of the company to any amount, executed payable and assignable as aforesaid; but the amount so allowed to be issued shall not exceed fifteen thousand dollars for each mile of the railway now or hereafter constructed, and such mortgage bonds shall, without registration or formal conveyance, be taken and considered to be first and preferential claims and charges upon the undertaking and property of the railway, and each holder thereof shall be deemed a mortgagee and incumbrancer *pro rata* with all the other holders thereof upon the undertaking and property of the company.

Power to issue
bonds to be a
first charge on
the whole
railway.

CHAPTER 80.

An Act to amend the Acts respecting the Yorkville Loop Line Railway Company.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the Yorkville Loop Line Railway Company have by their petition prayed for certain amendments of their Charter and for an extension of time for the completion of the construction of the said railway; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Powers.

1. It shall be lawful for the company to extend their line to any points, in the townships of Scarborough and York or in the city of Toronto, necessary or convenient for making connection with the lines of the Credit Valley Railway Company, and the Toronto and Ottawa Railway Company, or with any other companies having lines of railway entering or passing through the city of Toronto or its vicinity, and to make such running arrangements or other agreements with such companies as they are permitted by their Act of incorporation (thirty-six Victoria, chapter seventy-seven) to make with the companies or lines therein enumerated.

Time extended.

2. The time for the completion of the said railway is hereby extended to three years after the passing of this Act.

CHAPTER 81.

An Act to enable the Trustees of Bethel Congregation, of the Town of Orangeville, to sell certain land.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS John James Curry and Charles Gillespie, of the township of Amaranth, Adam Hunter, of the township of Garafraxa, John Harshaw, of the township of Mono, Henry Torrance, of the township of Caledon, and Alexander Skelton, Alexander MacGowan and Samuel H. McKittrick, of the town of Orangeville, trustees of the St. Andrew's congregation, of the town of Orangeville, in connection with the Presbyterian Church in Canada, have, by their petition, set forth that, by an indenture dated the twentieth day of June, in the year

year of our Lord one thousand eight hundred and fifty-three, Orange Lawrence being the owner in fee simple of the lands in the said deed described, and hereinafter mentioned, granted and conveyed the same unto Alexander Skelton, John Phenix (the elder), John Corbit (the elder), William Hunter and William Kilpatrick, as trustees of the Bethel congregation, of the town of Orangeville, in connection with the Presbyterian Church of Canada in connection with the Church of Scotland, and their successors in office for ever, in trust for the use of the said congregation, for the support of public worship and the propagation of Christian knowledge, and for the benefit of the said congregation for a place of worship, manse and burying ground, and that the said lands are, by the terms and conditions of the said deed, now vested in the said petitioners as succeeding trustees as aforesaid; and whereas the said petitioners have further represented that the said congregation have united with the Zion congregation of the said Presbyterian church in Orangeville, and now form a new or united congregation, under the name of "St. Andrew's" Presbyterian church at Orangeville, in connection with the Presbyterian Church in Canada, and that the said lands, which have been heretofore used by the said Bethel congregation as a place for public worship and a burial ground, in consequence of the union aforesaid are not further required by the said congregation, and that the said congregation are desirous of removing the bodies interred therein, and selling and disposing of the said lands, and appropriating the proceeds of the sale thereof towards the liquidation of a certain debt incurred in the erection of a new place of worship for the said new or united congregation; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. It shall be lawful for the said petitioners, John James Curry, Charles Gillespie, Adam Hunter, John Harshaw, Henry Torrance, Alexander Skelton, Alexander MacGowan and Samuel H. McKitrick, trustees as aforesaid, and the survivor or survivors of them or their successors in office, and they are hereby authorized by deed to lease, mortgage, or sell and convey, in fee simple or for any lesser estate, the said lands in the said deed described, and being lots numbers eleven and twenty-three, in block number eight, in the town of Orangeville, and county of Dufferin (formerly a part of the County of Wellington,) according to a plan of lots laid out, at the instance of the municipality of the township of Garafraxa, by Charles J. Wheelock, Esquire, Provincial land surveyor, and filed in the registry office for the said county of Wellington, and also that certain other parcel or tract of land, known and described as follows: being in the rear of lot twenty-three last mentioned, and separated from it by a street three rods in width,

Sale of land
authorized.

width, running parallel with the county line (now Broadway street), and which is now known as York street, and commencing at a point eight rods from the most south-easterly point of Bythia street, at its intersection with York street, and running hence easterly along York street four rods; thence rearward southerly, at right angles to York street, twenty rods; thence westerly, parallel to York street, four rods; thence northerly, at right angles to York street, twenty rods, more or less, to the place of beginning; and they are hereby authorized to sell the same either by public auction or private contract, and either for cash or on credit, and in such parcels, for such prices, and upon such terms and conditions as may be deemed expedient, and the said trustees, and the survivor or survivors of them and their successors are empowered to so lease, mortgage, or sell and convey as aforesaid the said lands freed and discharged from all trusts under which they are now held, and of and from all right, title, interest, claim, and demand of any person or persons, or of their representatives.

Application of
proceeds of
sale.

2. The said trustees and the survivor or survivors of them, or their successors in office, shall apply the proceeds of such sale or sales towards the liquidation of the said debt, incurred in the erection of the present place of worship, now occupied by the said new or united congregation.

Purchasers
not bound to
see to applica-
tion of purch-
ase money.

3. No person or persons, body or bodies corporate, who have purchased or shall purchase the said lands or any part thereof, shall be in any way bound to see to the application, or be answerable for the non-application of the purchase money or any part thereof.

Remains of
dead may be
removed from
part of ceme-
tery after
notice.

4. The said trustees, and the survivor or survivors of them and their successors, shall have full power and authority, after giving notice as hereinafter required, to remove of their own accord, and at their own expense, and without any further notice to the friends or relatives of the dead, all the remains of the dead now interred in any part of the said lands from their said place of interment therein, to the cemetery known as the "Forest Lawn Cemetery," adjacent to Orangeville, or to the cemetery now owned by the corporation of the said town of Orangeville, and known as the "Town Cemetery;" and the remains of the dead so removed shall be re-interred at the expense of the said trustees and their successors, in burial places or plots corresponding in size, as nearly as may be, with those from which such remains shall have been removed.

Notice of
removal.

5. The said trustees, and the survivor or survivors of them and their successors in office, before removing the remains of the dead, in the last preceding section authorized, shall, during the period of one month, publish a notice once a week in the *Ontario Gazette*, and in one newspaper published in the town of Orangeville, which said notice shall set forth the powers

powers in the last preceding section granted, and that persons owning burial lots from which the remains of the dead are sought to be removed, will, upon removing the said remains either to the Forest Lawn Cemetery or to the Town Cemetery aforesaid, receive conveyances of burying plots therein, corresponding in size, as nearly as may be, with those lots from which the remains of the dead shall have been so removed; and the said trustees and their successors shall be required to procure and furnish such conveyances, and to pay all reasonable expenses incurred or sustained in or by reason of such removal and re-interment of said remains in such cemetery aforesaid.

6. It shall be the duty of the said trustees, and the survivor or survivors of them, and their successors, to use due care and diligence that all the remains of the dead have been removed from the said lands before they lease, mortgage or sell as aforesaid, but the title of any lessee, mortgagee or purchaser shall not be affected or prejudiced by reason only of the non-removal of any remains of the dead from the portion or portions so leased, mortgaged or sold, if it shall be made to appear to the county judge of the county of Dufferin for the time being, and if he shall so certify under his hand, that all the remains of the dead, so far as the same could be discovered, have been removed from the said portion or portions so leased, mortgaged or sold; and such certificate shall be registered in the registry office for the said county, on the production thereof to the registrar, and the payment to him of one dollar as a fee for such registration.

Care to be taken that all remains are removed before sale of land.

CHAPTER 82.

An Act to amend the Act to incorporate Knox College.

[Assented to 4th March, 1881.]

WHEREAS Knox College, by its petition, represents that Preamble.
the said college is an institution for the theological education of students for the ministry of the Presbyterian Church in Canada, and has been incorporated for that purpose by chapter sixty-nine of the statutes of the then Province of Canada, passed in the session held in the twenty-second year of the reign of Her Majesty Queen Victoria; that since the foundation of said college between three hundred and four hundred students have received in it their theological education; that nearly all the students of said college have received the greater part of their literary education at University College, Toronto; that the students of Knox College

College will, to a great extent, seek their education in arts at said University College; that neither the University of Toronto nor said Knox College has power to confer degrees in divinity, and the said students are thus precluded from obtaining such degrees from the institutions where they have received their literary and theological education; that the said college has a staff of professors and tutors, and a valuable theological library, and has erected large and expensive buildings at Toronto, in proximity to said University College, for the purpose of affording a thorough education to the said students for the ministry of said Presbyterian Church; and that said Knox College is already partially endowed, and is constantly receiving further sums towards completing said endowment; and whereas the said Knox College has prayed that in order to promote a higher standard of theological learning, and to prevent its students from being compelled to resort to other colleges for degrees in divinity, power might be granted to it to confer such degrees; and whereas it is expedient to grant the prayer of said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Power to confer degrees in Divinity.

1. The senate of Knox College shall have power to confer the degrees of Bachelor of Divinity and Doctor of Divinity upon graduates in Arts of such universities as the said senate shall recognize for that purpose, as well as upon such students of the said college as are now taking the regular course of study therein, or have before the passing of this Act completed the said course, and are now ordained ministers of the Presbyterian Church in Canada, subject however, in either case, to such regulations as to examination or otherwise as may, from time to time, be prescribed by by-law of the said senate.

Honorary degrees.

2. The said senate shall also have power to confer the honorary degree of Doctor of Divinity, and may make by-laws and regulations touching any matter or thing pertaining to the conditions on which said degree may be conferred.

CHAPTER 83.

An Act to authorize the trustees of St. Andrew's Church, Williamstown, to sell certain land.

[Assented to 4th March, 1881.]

WHEREAS John McArthur, Daniel Campbell, Alexander J. Grant, John W. Ferguson, and Duncan B. McLennan, trustees of St. Andrew's Church, Williamstown, within the bounds of the Presbytery of Glengarry, in connection with the Presbyterian Church in Canada, have, by their petition, prayed that the said trustees be empowered to sell and dispose of the west half of lot number eleven in the first concession or range south side of the River aux Raisins, in the township of Charlottenburgh, as described in the patent thereof from the Crown, and to apply the proceeds of such sale for the benefit of the resident minister for the time being and his successors; and whereas the said parcel of land is at a considerable distance from the manse, and has been heretofore mainly valuable for the firewood supplied therefrom for the use of the resident minister, which supply of firewood is now exhausted; and whereas the said lot of land could not be made available for any useful purpose without expending a larger sum of money than the same is worth, and has in consequence become unproductive and yields no revenue; and whereas it is for the benefit of the resident minister for the time being, and his successors, that the said parcel of land should be sold, and the proceeds of the sale invested for the benefit of the said resident minister for the time being, and his successors; and whereas the resident minister, the said congregation and the Presbytery of Glengarry are consenting parties to the sale and disposal of the said land; and whereas the resident minister is provided by the said congregation with a manse and another lot of land adjoining the manse sufficient for all his wants and requirements; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said John McArthur, Daniel Campbell, Alexander J. Grant, John W. Ferguson, and Duncan B. McLennan, all of the township of Charlottenburgh, trustees of St. Andrew's Church, Williamstown, in the county of Glengarry, in connection with the Presbyterian Church in Canada, and the survivor or survivors of them, or their successors in office, shall have full power and authority to contract and to sell the said west half of lot number eleven, in the first concession or range south side of the River aux Raisins, in the township of Charlottenburgh, as described in the patent thereof from the Crown, Sale of land authorized.

Crown, in one or more parcels, from time to time, at private sale or by public auction, for cash or on credit, secured in such manner as to them seems fit, with power to buy in at any auction or auctions, and to resell, or rescind, or vary any sale or contract for sale that may have been entered into, and resell without being responsible for any loss or deficiency thereon, and on any sale or sales, conveyances execute and deliver and the consideration money demand and receive, and to release all mortgages or other security that may be given for the purchase money or of any part thereof.

Application of
proceeds of
sale.

2. The vendors shall apply the proceeds of such sale for the benefit of the resident minister, for the time being, of the said congregation of St. Andrew's Church, Williamstown; and his successors, in compliance with the terms of the original deed in that behalf: Provided always that the purchaser or purchasers shall not be responsible for the application of the moneys arising from the sale of the said lot, or any part thereof.

Rights not
affected.

3. Nothing in this Act contained shall be construed to affect any rights of any other person or persons in respect of said lands, nor any liens or incumbrances now existing on or against said lands.

CHAPTER 84.

An Act to provide for the sale of the Rectory House and Lands belonging to St. John's Church, in the Township of London.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS the rector and churchwardens of St. John's Church, in the township of London, have, by their petition, prayed for the passing of an Act to give permission to the said the rector and churchwardens of St. John's Church, in the township of London, to sell the rectory house and site belonging to the said church, the same being part of lot number fifteen, in the third concession of the said township of London, and to apply the proceeds derived from such sale in and towards building a new rectory house, on a site of about two acres to be purchased or procured by the vestry of the said church for that purpose, in or near the village of St. John's, in the said township of London; and whereas the present situation of the said rectory house is not as convenient as it would be if it were changed to the proposed new site; and whereas it is expedient to grant the prayer of such petition;

Therefore

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The rector and churchwardens of St. John's Church, in the township of London, shall have full power and authority to sell and absolutely dispose of the following lands and premises, namely:—That part of lot number fifteen, in the third concession of the township of London, which is marked "Reserve," in the survey made by B. Springer, Esquire, Provincial Land Surveyor, of that part of the said lot number fifteen, known as block "A," being composed of two-and-a-half acres of land more or less, which may be better known and described as follows:—Commencing at a point in the north-easterly boundary of the Proof Line Road, at the distance of five chains, ninety-one and a half links from the intersection of the said road, and the road allowance between the second and third concessions, and known as Huron street; thence north-westerly along the said boundary four chains; thence north-easterly at right angles to the Proof Line Road six chains, eighty-four links, more or less, to the south-westerly boundary of Brough street; thence south-easterly along the said boundary four chains, eleven and two-fifths links; thence south-westerly at right angles to the Proof Line Road, five chains, fifty-eight links, more or less, to the place of beginning; and any deed executed by said rector and churchwardens shall vest in the purchaser a full, clear, and absolute title to the said lands, subject only to any leases thereof, or rights granted therein, or incumbrances or liens created thereupon, by competent authority prior to such sale, and also to any mortgage that may be executed thereof to secure all or any of the purchase money thereof.

2. The proceeds of such sale or sales of the said lands as the same may be from time to time paid, or as the same may come in, shall be by the said rector and churchwardens invested in the purchase or building of a rectory house on a site of about two acres, to be purchased or procured by the vestry of the said church for that purpose, in or near the village of St. John's in the said township of London.

CHAPTER 85.

An Act respecting St. Paul's Church, in the Town of Woodstock.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS by an Act of the Legislative Assembly of the Province of Ontario, passed in a session thereof held in the thirty-ninth year of the reign of Her Majesty, intituled "An Act respecting certain lands belonging to Saint Paul's Church in the town of Woodstock," certain powers were granted to the church wardens of the said church for the time being, with the consent of the rector and vestry to be obtained as therein specified, to apply one equal third of the proceeds of the sales of the lands therein mentioned, then or thereafter to be made, towards the purchase of a new site within the said town of Woodstock for a church, parsonage house, and school house belonging to the said Church of England, and towards the erecting thereon such church, parsonage house and school house; and whereas by the petition of the rector, vestry, and church wardens of the said church, it is represented that it would be greatly to the benefit of the said church that the additional powers hereinafter contained should be vested in the said church wardens for the time being, in respect of the said lands and the proceeds of the sales thereof; and it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Proceeds of sale of land may be applied wholly to payment of debt.

1. It shall be lawful for the church wardens of the said rectory for the time being, with the consent in writing of the rector of the said church, and also with the consent of the vestry of the said church first had and obtained at a special meeting of the said vestry called and held for that purpose, to apply the whole of the proceeds of the sales of the lands in the Act first in recital mentioned, heretofore made or hereafter to be made, towards the payment of a debt due by the said vestry in the building of a church erected by them on the south side of Dundas street, in the town of Woodstock, and towards the purchase of a new site within the said town of Woodstock, for a parsonage house and school house, and towards the erecting thereon or on any site they may at present possess, such parsonage house and school house.

Sale or pledge of securities authorized.

2. The said church wardens may from time to time, with such consents as aforesaid, sell, assign, mortgage or pledge all such principal moneys, interest and rents, and all mortgages, leases, stocks and shares, or other securities in which the same are now or may hereafter be invested, subject, however, to all incumbrances thereon already created by them.

CHAPTER

CHAPTER 86.

An Act to amend the Act to incorporate the Roman Catholic Bishops of Toronto and Kingston, in Canada, in each Diocese.

[Assented to 4th March, 1881.]

WHEREAS the Roman Catholic Episcopal Corporation for Preamble.
the diocese of Toronto in Canada, hath, by its petition, set forth that doubts have arisen as to the power of the said corporation under the Act passed in the eighth year of the reign of Her Majesty Queen Victoria, chaptered eighty-two, intituled "An Act to incorporate the Roman Catholic Bishops of Toronto and Kingston, in Canada, in each Diocese," to mortgage the lands held by the said corporation; and whereas the said corporation hath prayed that the said Act may be amended so as to remove said doubts, and it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said Roman Catholic Episcopal Corporation for the diocese of Toronto in Canada, shall have power to borrow Power to mortgage lands. moneys on mortgage security of the real estate of said corporation for the purpose of purchasing real estate, for any of the purposes of the said corporation, or for the purpose of erecting, finishing, or repairing any church, chapel, seminary, or clergyman's residence erected, or to be erected, and for enlarging the same, or to pay off any debt which may have been or may be incurred by such corporation: Provido. Provided that such mortgages shall be executed by the same parties and in the same manner as required by the fifth section of the said Act respecting the execution of deeds and conveyances.

2. All moneys borrowed by and in the name of the said corporation, for which mortgages have been given on the real estate of the corporation in conformity with the requirements of the fifth section of the said Act, shall form a lien and are hereby created incumbrances on the lands covered by such mortgages, and the said the Roman Catholic Episcopal Corporation of the diocese of Toronto, in Canada, is hereby declared to be bound for the payment of the same, notwithstanding that, at the time of the execution of such mortgages the said corporation may have had no power to borrow money on mortgage, and this Act shall not be held to relieve or discharge the said corporation of or from any liability or claim now existing against the same.

3.

Lenders not bound to see to application of purchase money.

3. The person, or persons, or corporations from whom such moneys shall be borrowed on the said mortgage security shall not be obliged to see to the application of the said moneys or of any part thereof.

This Act to be read with 8 Vic., c. 82.

4. This Act and the said Act passed in the eighth year of the reign of Her Majesty Queen Victoria, and chaptered eighty-two, shall be read together and shall, with the amendments hereby made, form one Act so far as the said the Roman Catholic Episcopal Corporation of the diocese of Toronto, in Canada, is concerned.

CHAPTER 87.

An Act to incorporate the Toronto Baptist College.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS it has been represented to the Legislature of this Province, that the Honourable William McMaster, of Yorkville, Senator of the Dominion of Canada, has purchased from the Crown certain lands, particularly described in the conveyance thereof from the bursar of the university and colleges at Toronto, to the said the Honourable William McMaster, which conveyance bears date the twenty-third day of March, one thousand eight hundred and eighty, for the purpose of erecting thereon suitable buildings for a theological college for the education and training of students preparing for the ministry of the Regular Baptist denomination, which buildings are now in course of erection; and whereas by deed bearing date the first day of December, one thousand eight hundred and eighty, the said the Honourable William McMaster, has transferred the said lands to the trustees hereinafter named, upon the trusts in the said deed set out; and whereas the said trustees have, by their petition, asked for an Act of incorporation; and whereas it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Incorporation and corporate name.

1. The Honourable William McMaster, the Honourable Alexander Mackenzie, and the Reverend John Harvard Castle, D.D., of Toronto; the Reverend Andrew Heber Munro, Thomas James Claxton, Albert Azro Ayer, and John Turnbull, of Montreal; William Craig, of Port Hope; John Dryden, of Whitby Township; William J. Copp, of Hamilton; James Mills, of St. Catharines; Thomas S. Shenston, and William Buck, of Brantford; Charles Raymond, of Guelph; Henry Moyle, of Paris, and John Alexander Boyd, Arthur Robinson McMaster,

McMaster, Humphry Ewing Buchan, Joseph Benjamin McArthur, and Daniel Edmund Thomson, of Toronto being the trustees named in the said trust deed, and all such other persons as shall hereafter become trustees, in accordance with the terms of the said trust deed and of any constitution, by-laws, or regulations, which may be adopted by the said trustees and their successors, shall be and are hereby constituted and declared to be a body corporate, by the name, style, and title of "The trustees of the Toronto Baptist College," and by that name, shall and may have perpetual succession, and a common seal, with power to break, alter and change the same at pleasure, may sue and be sued, contract and be contracted with, in the said corporate name, for all or any of the objects aforesaid, and the said trustees and their successors shall have full power to make and establish a constitution and all such and so many rules, orders, by-laws, and regulations, not being contrary to the laws of this Province or this Act, as they shall deem useful or necessary, as well concerning the system of education to be observed and followed in the said college, as for the conduct and government thereof, and for the superintendence, advantage and improvement of all property, real or personal, which may belong to the said corporation : Provided always, that no constitution, rule, by-law, order or regulation, which shall be made and established by the said corporation in manner aforesaid, shall be of any force or effect until the same shall have been sanctioned by a vote of at least two-thirds in number of the trustees present at any regular meeting. Proviso

2. The said corporation shall be able and capable in law to take, purchase and hold, by any legal title whatsoever, all such lands, tenements, possessions, and property, real and personal, as may be necessary for the actual use and occupation of the said college, and for residences for the professors, tutors, students and officers thereof, with gardens or pleasure grounds pertaining thereto, already conveyed or hereafter to be conveyed to the said trustees ; and to accept and hold, within the limits hereinafter prescribed, for the benefit of the said college, any gifts, devises, or bequests of any property, real or personal, to sell and alienate any property so given, devised or bequeathed, and to apply the proceeds of such sale or sales for the use and benefit of the said college, and to invest such moneys as they deem advisable, upon such securities as to the said trustees shall seem meet : Provided that no gift or devise of any real estate, or of any interest therein, in favour of the said corporation, shall be valid unless made by deed or will executed by the donor or testator at least six months before his death ; and Provided always, that real estate not required for the use and occupation of the said college, or for the residences of the professors, tutors, students and officers thereof, as aforesaid, shall not at any time be held by it for a longer period than seven years, and that any such real estate not sold and alienated within seven years of the time Power to acquire and hold property.
Proviso.

time when the same is received by the said corporation, shall revert to the party from whom it came to the corporation, or to his or her heirs or devisees.

Power to appoint attorney.

3. The said corporation shall further have the right of appointing an attorney or attorneys for the management of its affairs and all other, the usual rights, powers and franchises incident to a body corporate.

Appointment and removal of professors, officers and servants.

4. The said trustees and their successors shall be the controlling body of the said college, and shall have full and exclusive power and authority as to the appointment and dismissal of all professors, tutors and teachers, and all officers and servants of the said college, and for and in respect of every matter and thing connected with the control, maintenance and regulation thereof, but subject to all the laws of this Province in that behalf.

Appointment and removal of trustees.

5. The said trustees shall have full power and authority to appoint, dismiss or remove trustees, and to appoint new trustees from time to time, in accordance with the terms of the said trust deed, and of any constitution, by-laws, or regulations in that behalf which may, in accordance with the terms of the said trust deed, be adopted by the said trustees.

Meetings of trustees.

6. The first regular meeting of the said trustees shall be held in the city of Toronto, in Jarvis Street Baptist Church, on Tuesday, the twelfth day of April next after the passing of this Act, at the hour of two o'clock in the afternoon, of which such first meeting public notice shall be given by advertisement published for two weeks prior thereto in the newspaper called *The Canadian Baptist*; and thereafter all the meetings of the said trustees, regular and special, may from time to time be held at such time and place, and at such intervals and in such manner, and subject to such rules as may be determined by the said trustees, by any constitution, by-laws, or regulations so to be adopted by them as aforesaid.

Election of officers.

7. The said corporation may elect such officers thereof, from time to time, as may be provided for by any such constitution, by-laws or regulations so to be adopted by them, as aforesaid, and in such manner, and for such term as may be provided for by such constitution, by-laws or regulations: Provided, however, that any person appointed treasurer of the said corporation shall, before entering upon his duties as such, find good and sufficient security to the satisfaction of the said trustees for the due performance of the trusts reposed in him.

Proviso.

Application of property and revenue.

8. All property which shall at any time belong to the said corporation, as well as the revenues from it, shall at all times be

be exclusively applied and appropriated to the purposes of the said college, and for no other object whatever.

9. The faculty of the said college, with the concurrence of the board of trustees, shall have power to confer the degree of Bachelor of Divinity and of Doctor of Divinity upon graduates in Arts of such universities as the said faculty shall recognize for that purpose; subject, however, to such regulations as to examination or otherwise as may, from time to time, be prescribed by by-law of the said faculty.

Power to confer degrees in Divinity.

10. The faculty of the said college, with the concurrence of the board of trustees, shall have power to confer the honorary degree of Doctor of Divinity.

Honorary degrees.

11. It shall be the duty of the said corporation, at all times when they may be called upon so to do by the Lieutenant-Governor of this Province, to render an account of their property, in which shall be set forth in particular the income by them derived from property held under this Act, and the source from which the same has been derived, and also the number of professors and teachers employed in the said college, and the number of scholars under instruction and the course of instruction pursued.

Return to be made when required by the Lieutenant-Governor.

CHAPTER 88.

An Act to authorize the Trustees of the Union Church, at Port Colborne, to sell certain lands.

[Assented to 4th March. 1881.]

WHEREAS the trustees of the building fund of the Union Church, in the village of Port Colborne, in the county of Welland, have, by their petition, set forth that, by deed, bearing date the third day of April, in the year of our Lord one thousand, eight hundred and fifty-seven, the lands herein-after mentioned were granted to the trustees therein mentioned, and to their successors in office, for church purposes; that the present trustees under said deed are Thomas Armstrong, Lewis G. Carter and James Schofield; that, by memorial bearing date the thirty-first day of December, in the year of our Lord one thousand, eight hundred and seventy-nine, the original subscribers to said building fund of said church have set forth that many of the denominations for which said Union Church was built have secured other suitable places of worship; that said church is at present, and is likely to be in the future, occupied by only one congregation, to wit, the Presbyterian congregation, and that, therefore, the said trustees should take

Preamble.

necessary steps to sell the said church to that body, or otherwise, as to them may seem best; and that the proceeds arising from the sale of said church be, by the said trustees, applied in payment of the debts due on said church, which are largely in excess of the amount which can be realized from such sale; and whereas, in and by the deed granting said lands to said trustees, the said lands can only be sold in case a more advantageous and better situation for a union church can be procured; and whereas all requisite formalities have been complied with; and whereas it is expedient to grant the prayer of said petition, and to authorize the sale of the said lands;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Sale by trustees authorized.

1. The said trustees of the building fund of the Union church, in the village of Port Colborne, in the county of Welland, for the time being, and their successors in office, are hereby empowered to grant, bargain, sell and convey the lands before referred to, being lot number five, on the north side of Charlotte street, in said village of Port Colborne, absolutely and freed from all trusts, of whatsoever nature or kind, created by or under the deed mentioned in the preamble to this Act, and such deed of conveyance shall be valid and binding upon all parties thereto, but expressly subject to all mortgages, liens and incumbrances now rightfully existing on or against said lands.

Application of proceeds of sale.

2. The said trustees shall hold the proceeds of such sale or sales, as the case may be, in trust to apply the same in payment of all debts due and owing by said church.

Purchasers not bound to see to application of purchase money.

3. No person or persons, body or bodies corporate, who have purchased or shall purchase the said lands or any part thereof, shall be in any way bound to see to the application, or be answerable for the non-application of the said purchase money or any part thereof.

CHAPTER 89.

An Act to vest certain lands in the Town of Woodstock in Trustees, and to authorize a sale of the same.

[Assented to 4th March, 1881.]

Preamble.

WHEREAS lots numbers two and three, on the east side of Graham street in the town of Woodstock, were by letters patent, bearing date the twelfth day of June, in the year of our Lord one thousand eight hundred and fifty-four, granted to certain trustees therein named, in trust for the benefit of the Presbyterian congregation of Woodstock, in connection with the Church

Church of Scotland; and whereas an Act of the Parliament of the Province of Canada was passed in the thirtieth year of the reign of Her Majesty Queen Victoria, intituled "An Act to authorize the trustees of the Presbyterian congregation of the town of Woodstock, in connection with the Church of Scotland, to sell certain lots in the said town held by them in trust for the said congregation," and under and by virtue of said Act, a certain portion of said lot number two, on the east side of Graham street, was sold and conveyed to one Caleb Caister, by deed, dated the twenty-eighth day of August, in the year of our Lord one thousand eight hundred and sixty-six, which piece of land so conveyed to the said Caleb Caister, is described as follows: Commencing at the south-west angle of lot number two, then northerly along the western boundary of the said lot fifty feet, then easterly parallel with the southern boundary of the same lot two hundred and thirteen feet (more or less) to the eastern boundary thereof, then southerly along the said eastern boundary fifty feet to the south-east corner of said lot, then westerly along the southern boundary of the same lot two hundred and thirteen feet (more or less) to the place of beginning; and whereas, by deed dated the twelfth day of June, in the year of our Lord one thousand eight hundred and seventy-five, the then trustees of the said Presbyterian congregation of the town of Woodstock, in connection with the Church of Scotland, conveyed all that portion of said lot number two on the east side of Graham street, not sold to the said Caleb Caister, and all of lot number three, to the trustees of Chalmers' church in the Town of Woodstock, for the nominal consideration of one dollar, for the purpose of erecting a church thereon for the use of the congregation of said Chalmers' church; and whereas the said congregation of Chalmers' church in the town of Woodstock, have decided not to erect a church on the said lands so conveyed to them, as hereinbefore mentioned, for that purpose, and the said congregation is desirous that the said lands should be vested in the persons hereinafter named, upon and for the purposes hereinafter declared; and whereas the members of the said Presbyterian congregation of the town of Woodstock, in connection with the Church of Scotland, have joined the said Chalmers' church and Knox church in said town of Woodstock, and the St. Andrew's church congregation on the west quarter town line of the township of East Oxford, and the said Presbyterian congregation, of the town of Woodstock, in connection with the Church of Scotland, no longer exists as a congregation, and it is expedient that the said lands should be so vested in trustees and the same sold and the proceeds divided as hereinafter provided;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Lot number three and that portion of lot number two, on the east side of Graham street, in the town of Woodstock, not heretofore

Lands vested
in trustees.

heretofore sold and conveyed to Caleb Caister, are hereby vested in William Pott, of the town of Woodstock, in the county of Oxford, merchant, William A. Reid of the same place, merchant, and Robert Chambers, of the township of East Oxford, in the county of Oxford, farmer.

Trustees empowered to sell land.

2. The said William Pott, William A. Reid and Robert Chambers, and the survivors of them, shall have full power and authority to sell the said parcels of land composed of said lot number two and that portion of lot number three on the east side of Graham street, not heretofore conveyed to the said Caleb Caister, either in one or more parcels, to such person or persons, party or parties as may be willing to become the purchaser or purchasers thereof, and that in such manner, whether by public sale or private contract, or partly by the one way and partly by the other, and at such times and at such price or prices, and on such terms of payment and security as to them or a majority of them may seem best, and by a good and sufficient title or titles under their hands and seals to convey the same when so sold to the purchaser or purchasers thereof, in trust, to apply the proceeds of such sale or sales, and the sale or sales of such securities as may be taken by them as aforesaid, as follows :—

Application of proceeds.

First. To pay all necessary costs and expenses connected with the trust hereby created, and the sale and disposal of the said lands, and also to pay the congregations of Knox church and Chalmers' church, at Woodstock aforesaid, all costs and expenses incurred by them in connection with said property.

Second. If the said parcels of land shall produce only the sum of three thousand dollars, or any less sum, after paying the expenses connected with the trusts hereby created, and the sale and disposal of the lands hereinbefore mentioned, and the costs and expenses of the congregations of Knox church and Chalmers' church, in connection with said property, they are to divide the same equally between the Presbyterian congregations of Chalmers' church and Knox church, Woodstock, and St. Andrew's church on the west quarter town line of the township of East Oxford ; but if the said lands shall produce a greater sum than three thousand dollars, after payment of all costs and expenses as aforesaid, then they are to distribute three thousand dollars equally amongst the said three congregations and to pay all amounts over the said sum of three thousand dollars equally between the congregations of Chalmers' and Knox churches, of Woodstock.

Payments to treasurers of the several congregations by trustees a sufficient discharge.

3. It is hereby declared that moneys received for the said lands may by the said trustees be paid over to the treasurers of the said respective congregations for the use of the said several congregations of Chalmers' church, Knox church and St. Andrew's church above mentioned, and that the receipts of the said several treasurers of the said respective churches shall be a sufficient discharge to the said trustees.

CHAPTER

CHAPTER 90.

An Act to vest in the newly appointed Trustees of the Marriage Settlement of B. H. Dixon, the property therein comprised, and to authorize the sale and leasing thereof.

[Assented to 4th March, 1881.]

WHEREAS Benjamin Homer Dixon and Frances, his wife, ^{Preamble.} have, by their petition, represented that, before their marriage, the said Benjamin Homer Dixon was seized, in fee simple, in possession of certain real estate, situate on Wellesley street, in the city of Toronto, known as "The Homewood," containing about four acres, more particularly described in the indenture hereafter referred to, and was, also, possessed of the personal estate in the said indenture referred to; that shortly before said marriage, and in contemplation thereof, the said Benjamin Homer Dixon, by the said indenture, which is dated the twenty-eighth day of November, one thousand eight hundred and sixty-six, and registered in the registry office for the city of Toronto on the fifth day of January, one thousand eight hundred and sixty-seven, conveyed the said real estate unto Fitz Eugene Dixon and William Henry Boulton, and their heirs, and assigned the said personal estate therein mentioned unto the said Fitz Eugene Dixon and William Henry Boulton, their executors and administrators, to the uses and upon the trusts following, that is to say: to the use of himself, the said Benjamin Homer Dixon, for life, with remainder, after his death, to the use of said Frances, his then intended wife, for life, and, after the death of the survivor of them, to the use of any child or children of the intended marriage, as the said Benjamin Homer Dixon should appoint, and, in default of appointment, and so far as any appointment should not extend, to the use of all the children of the said intended marriage, who, being a son or sons, should attain the age of twenty-one years, or, being a daughter or daughters, should attain that age or marry, which should first happen, and in case there should be no child of the said intended marriage, who, being a son, should attain the age of twenty-one years, or, being a daughter, should attain that age or marry, then to the use of the said Benjamin Homer Dixon, his heirs and assigns forever; that the said Fitz Eugene Dixon never executed the said indenture, and that it is uncertain whether he ever accepted the trusts thereof; that the said William Henry Boulton died on or about the first day of February, one thousand eight hundred and seventy-four; that the said Fitz Eugene Dixon died on or about the twenty-second day of January, one thousand eight hundred and eighty, and, at the time of his death, was an alien domiciled abroad, and that his heir-at-law is also an alien domiciled abroad;

abroad; that, under and by virtue of a power to that effect contained in the said settlement, the said Benjamin Homer Dixon has recently appointed two new trustees thereof, namely, James Henderson and Frederick William Kingstone, both of the said city of Toronto, barristers-at-law, in the place and stead of the said William Henry Boulton and Fitz Eugene Dixon, deceased, but that the real and personal estate comprised in said settlement has not yet been conveyed and assigned to or vested in the said newly appointed trustees; that, neither under the said indenture of settlement or otherwise, is there any power to sell the said real or personal estate, or any part thereof, or, until after the death of the survivor of the said Benjamin Homer Dixon and his said wife, to give valid binding leases for any term certain; that there are six children of the said marriage, the youngest of the age of one year, and that the said Benjamin Homer Dixon is of the age of sixty-one years, and his said wife of the age of forty-one years; that the said real estate has been and now is occupied by the said Benjamin Homer Dixon and his said wife, as a residence and garden and pleasure grounds appurtenant thereto, and all such garden and grounds are not required by them, and are a burden to them by reason of taxation and care, and that the expense thereof, and loss of benefit that would result if the property could be sold or let are detrimental, not only to them but to children of the marriage in view (among other views) of reasonable expectation of such children to possess such means as their parents might accumulate and leave at their death; that the ordinary powers to sell and lease usually inserted in all well drawn settlements of real estate for the benefit of parents and their children, whether drawn by conveyancers or by direction of the Court of Chancery, were omitted in the said settlement through inadvertence; that the said real estate is very valuable for building purposes, and could be sold or let within a reasonable time for such purposes, and has, irrespective of the residence thereon and buildings appurtenant thereto, and sufficient ground to hold therewith, a capacity for such purposes of about six hundred feet of frontage on streets, that is to say, four hundred feet on Homewood avenue when produced, and two hundred feet on Wellesley Place; that the said James Henderson and Frederick William Kingstone, the present trustees of the said marriage settlement, assent to the said petition; and the said petitioners have prayed, that the said real and personal estate, now subject to the trusts of the said indenture of settlement, may be vested in the said James Henderson and Frederick William Kingstone, for the estate therein, which would now be vested in the said Fitz Eugene Dixon and William Henry Boulton, if the said Fitz Eugene Dixon had accepted the trusts thereof, and he and the said William Henry Boulton were now living; and that powers may be given to the said James Henderson and Frederick William Kingstone, and the survivor of them, and the executors and administrators of such survivor, or the trustees

trustees or trustee for the time being of said settlement, or any nominee or nominees of the Court of Chancery, to sell and to lease the said property, and for the investment and disposition of the proceeds of sales or leases, and for such powers and provisions as are usual and proper in ante-nuptial settlements of realty directed to be sold for the benefit of children of the marriage generally, with a power of appointment as in said indenture contained; and it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said real and personal estate, now subject to the trusts of the said indenture of settlement, shall be, and the same hereby is vested in the said James Henderson and Frederick William Kingstone, and their heirs, executors and administrators, according to the nature and quality thereof as joint tenants, for the estate therein, which would now be vested in the said Fitz Eugene Dixon and William Henry Boulton, if the said Fitz Eugene Dixon had accepted the trusts thereof, and he and the said William Henry Boulton were now living. Estate vested in new trustees.

2. The said James Henderson and Frederick William Kingstone, and the survivor of them, and the executors and administrators of such survivor or other the trustee or trustees for the time being of the said settlement, shall have full power to sell, convey and dispose of the said real and personal estate, for the whole or any part of the estate, right, title and interest at law or in equity therein, which he, the said Benjamin Homer Dixon, had therein at and immediately before the execution of the said indenture, free from the claims of all persons who could or might claim thereunder, or under him, said Benjamin Homer Dixon, save only purchasers, mortgagees, lien holders, or incumbrancers, if any, and saving, as aforesaid, may, also, under the provisions hereafter named, lease the said real estate, or any parts thereof: Provided, however, that no sale or lease shall be made during the lifetime of the said Benjamin Homer Dixon without his consent in writing thereto, nor after his death during the lifetime of his said wife, Frances, without her consent in writing thereto. Trustees empowered to sell or lease. Proviso.

3. Any person or persons who may, at any time, have authority, by virtue of any of the provisions of this Act, either directly, as above named, or indirectly, as trustees for the time being of said settlement, or as appointee of the Court of Chancery, to sell or convey or lease, may, until the death of the survivor of the said Benjamin Homer Dixon and his said wife, with the consent aforesaid, and subsequently, as they or he think fit, sell or lease at public auction, or by private contract, for cash or on credit, with security for payment by reconveyance. Mode of selling or leasing.

reconveyance by way of mortgage or other security, and, from time to time, in several or one lot or lots, with power to buy in at any auction and rescind or vary any contract of sale or lease, and resell or relet, without being responsible for any loss occasioned thereby, and the purchase money and rents receive and discharges therefor give, and any one paying shall not be bound to see to the application of the purchase money, and any sale or lease may be, upon, with and subject to any stipulations, conditions, covenants, provisos for re-entry, agreements for renewal, at rents to be determined by arbitration, forfeiture or otherwise, as they or he think fit; and if it shall so happen that, by reason of determination or of forfeiture of any lease or contract of sale, or of any mortgage they or he may take as security, the lands leased, sold or mortgaged should revert, the same may be resold or relet, with any and under any of the powers herein contained, which shall not be deemed exhausted; such person or persons may lay out and set apart any of the said real estate, from time to time, as and for streets or lanes, and grant rights of way over the same, or dedicate the same to the public, and such grants may be on such terms as they or he see fit.

Appointment
by Court of
Chancery.

4. The Court of Chancery may, from time to time, appoint any person or persons to exercise all or any of the powers or directions by this Act given or conferred, either solely or jointly with the said James Henderson and Frederick William Kingstone, or with either of them, or with the trustees or trustee for the time being of said settlement, and may cancel, from time to time, its appointments and reappoint; the Court may, at all times, interfere and direct as to the disposal, control and investment of moneys, but, as to the securities hereinafter named whereon moneys may be invested, the person or persons for the time being authorized to invest may invest in any such securities, and power to invest shall not be confined to mortgages and Government securities.

Investment of
proceeds of
sales or
rentals.

5. All moneys received as proceeds of sales or rentals or otherwise, shall, after deducting all expenses for insurance against loss by fire, if any, of the trust property, and all taxes and all expenses and outlay whatever attendant on or towards the execution of any of the powers or directions by this Act, or by the said indenture of settlement, given or conferred, or on directions that may be required or granted by the Court, and all expenses and allowances and indemnity to trustees that the Court may think proper, including allowances to the person or persons, for the time authorized to act, for his or their care, trouble and responsibility, in like manner as in case of a trust, shall be laid out and invested in or upon real securities in Canada, or Government securities of Canada, or of any province thereof, the debentures of any municipality in the Province of Ontario, or in any other manner or way authorized by the Act passed in the forty-second year of the reign

reign of Her Majesty Queen Victoria, and chartered twenty-one, or on deposit with any investment company in said Province, formed chiefly for the purpose of investing on real estate, or with any chartered bank in said Province.

6. The annual proceeds of the said investments shall, after deducting therefrom as aforesaid, go and be paid to the said Benjamin Homer Dixon, or his assigns, during his life, and, after his death, to his said wife, or her assigns, during her life, and, after the death of the survivor, the principal moneys shall be held for and applied to the use of the child or children of the said marriage as the said Benjamin Homer Dixon shall, by virtue of the powers on him conferred in or by said indenture of settlement, appoint, and, in default of appointment, and, so far as any appointment shall not extend to the use of all the children who, being a son or sons, shall attain the age of twenty-one years, or, being a daughter or daughters, shall attain that age or marry, and, in case there shall be no child of the said marriage who, being a son, shall attain that age, or, being a daughter, shall attain that age or marry, then to the use of the said Benjamin Homer Dixon, his heirs or assigns, forever.

Application of
annual pro-
ceeds of in-
vestments.

7. Nothing in this Act contained shall be construed to prevent or interfere with the exercise, from time to time, of the power of appointing new trustees, contained in the said indenture of settlement, and any trustee or trustees so appointed shall have all the powers and authorities by this Act conferred upon the said James Henderson and Frederick William Kingstone.

Power in
settlement as
to appoint-
ment of trus-
tees not
affected.

CHAPTER 91.

An Act to authorize the Law Society of Ontario to admit Francis Hew Eccles as a Barrister-at-Law.

[Assented to 4th March, 1881.]

WHEREAS Francis Hew Eccles has by his petition set forth that he was on the eighteenth day of September, in the year of our Lord one thousand eight hundred and sixty, duly articulated to an attorney-at-law to serve the stipulated period as clerk to such attorney, that he did thenceforth until the decease of his father, the late Henry Eccles, a Queen's Counsel, practising in Toronto, being a period exceeding three years, duly serve under the said articles in the practice and study of the said profession; that upon the death of the said Henry Eccles circumstances over which he had not control compelled him to discontinue the study of the profession, and that

Preamble.

that he has for some time past been again diligently engaged in the study of the law and is desirous of being called to the Bar of Ontario, and it is expedient to grant the prayer of the said petition;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Law society
may admit F.
H. Eccles as a
barrister on
certain con-
ditions.

1. It shall be lawful for the Law Society of Ontario, upon payment of the usual fees, to call and admit the said Francis Hew Eccles to the degree of Barrister-at-Law on his passing the usual final examination prescribed by the rules of the said society without his complying with any other requirements or provisions of law or any other rules or regulations of the said society; any law, usage or custom to the contrary notwithstanding.

1881.—44 VICTORIÆ.

SECOND SESSION, FOURTH LEGISLATURE.

TABLE OF CONTENTS.

CAP.	PAGE.
1. An Act for granting to Her Majesty certain sums of money to defray the expenses of Civil Government for the year one thousand eight hundred and eighty-one, and for other purposes therein mentioned.	3
2. An Act to amend the Act respecting the sale and management of Timber on Public Lands	9
3. An Act to amend the Ontario Drainage Act	10
4. An Act to amend the law respecting the Registration of Births, Marriages and Deaths	13
5. An Act to consolidate the Superior Courts; establish a uniform system of pleading and practice; and make further provision for the due Administration of Justice	15
6. An Act to amend the Jurors' Act of 1879	221
7. An Act respecting Interpleader	222
8. An Act to regulate the Fees of certain officers and others	223
9. An Act to make provision for the Administration of Justice in the County of Dufferin	224
10. An Act to amend the Registry Act	228
11. An Act for Protecting the Public Interest in Rivers, Streams and Creeks	229
12. An Act to further amend the Revised Statute respecting Mortgages and Sales of Personal Property	232
13. An Act to amend the Act respecting the Registration of Partnerships and Business Firms	232
14. An Act to further provide for the release of Dower of Married Women in certain cases	233
15. An Act to amend the law securing to wives and children the benefit of Assurances on the lives of their husbands and parents ..	235
16. An Act respecting the appointment of Guardians for Infants ..	236
17. An Act to extend the powers of the Law Society of Upper Canada	236

CAP.	PAGE.
18. An Act to extend the powers of Companies incorporated under the Joint Stock Companies' Letters Patent Act	238
19. An Act for the incorporation by Letters Patent and the regulation of Timber Slide Companies	239
20. An Act to give increased stability to Mutual Fire Insurance Companies	244
21. An Act respecting returns required from Incorporated Companies.	251
22. An Act to make provision for the safety of Railway Employees and the Public.....	252
23. An Act respecting Aid to certain Railways	257
24. The Municipal Amendment Act of 1881	261
25. The Assessment Amendment Act, 1881.....	270
26. An Act respecting Snow Fences.....	273
27. An Act to give increased efficiency to the laws against illicit liquor selling	274
28. An Act to prevent the spread of the Yellows among Peach, Nectarine, and other Trees.....	283
29. An Act to amend the Act for the Protection of Insectivorous and other Birds beneficial to Agriculture	284
30. An Act for further improving the School Law	285
31. An Act respecting the University and Colleges at Toronto....	289
32. An Act to make further provision respecting the Central Prison, the Andrew Mercer, Ontario, Reformatory for Females, and the Industrial Refuge for Girls	290
33. An Act to amend the Act respecting the Inspection of Asylums, Hospitals, Common Gaols and Reformatories in this Province..	292
34. An Act relating to the incorporation of the Village of Brockton	292
35. An Act to change the name of the Town of Clifton to that of Niagara Falls	295
36. An Act to legalize a certain By-Law of the County of Frontenac, and the sale of the Debentures issued thereunder	296
37. An Act to confirm certain Assessments of the City of Kingston	297
38. An Act to close part of a certain road allowance between the Township of Kingston and the Village of Portsmouth	299
39. An Act respecting the Debt of the County of Lennox and Addington, and to enable the said County to consolidate the same..	300
40. An Act to authorize the Corporation of the City of London to sell certain lands.....	303
41. An Act to authorize the Village of London East to construct and maintain Water-Works, and to incorporate said Village as a Town	305
42. An Act respecting the Village of Millpoint	326
43. An Act to organize the Municipality of Neebing	3 2
44. An Act respecting Water and Gas Works at Parkdale	330
45. An Act to change the name of the Village of Petersville to London West.....	350
46. An Act to incorporate the City of St. Thomas.....	351

TABLE OF CONTENTS.

iii.

CAP.	PAGE.
47. An Act respecting the Debenture Debt of the County of Simcoe.	359
48. An Act to Consolidate the Debt of the Town of Windsor	362
49. An Act to transfer the securities of the Anglo-Canadian Mortgage Company to the Omnium Securities Company (Limited)..	365
50. An Act respecting the Canada Mortgage Agency, (Limited)..	369
51. An Act respecting the Credit Foncier Franco-Canadien.....	371
52. An Act to incorporate the Federal Fire Insurance Company, of Ontario.....	374
53. An Act respecting the Hawkeye Gold and Silver Mining Company.	379
54. An Act to amend the Act incorporating the Lake Scugog Marsh Lands Drainage Company	380
55. An Act respecting the Phoenix Mutual Fire Insurance Company of Ontario.....	381
56. An Act to change the name of the Sarnia Gas Company, to confirm a By-Law of the Town of Sarnia, and to extend the powers of said Company.....	384
57. An Act to amend the Acts incorporating the Toronto Gravel Road and Concrete Company.....	385
58. An Act to amend the Charter of Incorporation of the Victoria Rolling Stock Company of Ontario	389
59. An Act respecting the Waterloo County Mutual Fire Insurance Company, of Ontario	391
60. An Act to incorporate the Chatham and Charing Cross Railway Company	393
61. An Act to amend the Acts relating to the Credit Valley Railway Company	404
62. An Act to extend the time for the Completion of the Erie and Huron Railway	411
63. An Act respecting the Georgian Bay and Wellington Railway Company	412
64. An Act respecting the Grand Junction Railway Company.....	416
65. An Act respecting the Hamilton and Dundas Street Railway Company	418
66. An Act further to amend the Acts relating to the Hamilton and North-Western Railway Company	420
67. An Act respecting the Midland Railway of Canada.....	421
68. An Act to incorporate the Ontario Sault Ste. Marie Railway Company	424
69. An Act amalgamating the Port Dover and Lake Huron, the Stratford and Huron and the Georgian Bay and Wellington Railway Companies as the Grand Trunk, Georgian Bay and Lake Erie Railway Company	431
70. An Act respecting the Port Rowan and Lake Shore Railway Company	449
71. An Act to incorporate the Port Royal and Detroit River Railway Company	452

CAP.	PAGE.
72. An Act respecting the Prince Edward County Railway Company	465
73. An Act to incorporate the St. Catharines and Niagara Central Railway Company	467
74. An Act to amend the several Acts relating to the Toronto, Grey and Bruce Railway Company	481
75. An Act respecting the Toronto and Nipissing Eastern Extension Railway Company	486
76. An Act respecting the Toronto and Ottawa Railway Company..	487
77. An Act to amend the Acts respecting the Trent Valley Railway Company	488
78. An Act to incorporate the Weston and Duffin's Creek Railway..	489
79. An Act respecting the Whitby, Port Perry and Lindsay Railway Company	498
80. An Act to amend the Acts respecting the Yorkville Loop Line Railway Company	500
81. An Act to enable the Trustees of Bethel Congregation, of the Town of Orangeville, to sell certain land	500
82. An Act to amend the Act to incorporate Knox College	503
83. An Act to authorize the Trustees of St. Andrew's Church, Williamstown, to sell certain land	505
84. An Act to provide for the sale of the Rectory House and Lands belonging to St. John's Church, in the Township of London....	506
85. An Act respecting St. Paul's Church, in the Town of Woodstock	508
86. An Act to amend the Act to incorporate the Roman Catholic Bishops of Toronto and Kingston, in Canada, in each Diocese..	509
87. An Act to incorporate the Toronto Baptist College	510
88. An Act to authorize the Trustees of the Union Church, at Port Colborne, to sell certain lands	513
89. An Act to vest certain lands in the Town of Woodstock in Trustees, and to authorize a sale of the same	514
90. An Act to vest in the newly appointed Trustees of the Marriage Settlement of B. H. Dixon, the property therein comprised, and to authorize the sale and leasing thereof	517
91. An Act to authorize the Law Society of Ontario to admit Francis Hew Eccles as a Barrister-at-law	521

INDEX

TO

ACTS OF THE PROVINCE OF ONTARIO.

SECOND SESSION, FOURTH LEGISLATURE, 44 VICTORIÆ.

	PAGE
ADMINISTRATION of Justice. <i>See</i> Ontario Judicature Act....	15
Andrew Mercer Reformatory. <i>See</i> Central Prison.....	290
Anglo-Canadian Mortgage Company, Act to transfer the securities of to the Omnium Securities Company (Limited).....	365
Assessment Amendment Act, 1881.....	270
Births and deaths to be entered on assessment roll.....	270
Townships, payment of taxes by instalments in.....	270
Increase or change of assessment by Court of Revision	271
Taxes, levy of, under warrant.....	271
Collector's roll, return of in cities, time for..	271
Taxes, arrears of how collected where new municipality formed from parts of different counties.....	271
" Proceedings to enforce, by whom taken	272
" Proceedings, where return made to treasurer before separation	272
" Collection of in new municipalities.....	272
" Arrears, on incorporation of a town, County Treasurer to transmit lists of, to Town Treasurer	273
Assessors. <i>See</i> School Law	285
Asylums, Hospitals, Common Gaols and Reformatories, Act to amend the Act respecting the inspection of.....	292
BETHEL Congregation, of the Town of Orangeville, Act to enable the trustees of, to sell certain land	500
Birds. <i>See</i> Insectivorous Birds.....	284
Births, Marriages and Deaths, registration of.....	13
Inquiry by assessor.....	13
Alteration of name after registration, how made	13
Registration of birth after expiration of two years	14
Registration of death after expiration of two years	14
Notice to be given by superintendent, etc., of cemetery, when	14
Brockton, Village of, Act relating to incorporation of	292

	PAGE
CANADA MORTGAGE AGENCY (Limited), Act respecting.....	369
Central Prison, Andrew Mercer, Ontario, Reformatory for Females, and the Industrial Refuge for Girls, Act to make further pro- vision respecting.....	290
Detention of offenders until removal to Central Prison or Reformatory	291
Directions by judge or magistrate as to removal or detention	291
Notice of detention to be given to Superintendent of Refuge	291
Chatham and Charing Cross Railway Company, Act to incorporate	393
Chattel Mortgages. <i>See</i> Mortgages.....	232
Clerks of County Courts. <i>See</i> Fees of certain officers.....	223
Clifton, Town of, Act to change name of, to Niagara Falls.....	295
Common Gaols. <i>See</i> Asylums	292
Companies. <i>See</i> Incorporated Companies	251
<i>See</i> Joint Stock Companies.....	238
Co-partnerships and Business Firms, Act to amend the Act respect- ing the registration of	232
Credit Foncier Franco-Canadien, Act respecting	371
Credit Valley Railway Company, Act to amend the Acts relating to	404
DEATHS, registration of	13
Deputy Clerk of Crown. <i>See</i> Fees of certain officers	223
Dixon, B. H., Act to vest in the newly appointed trustees of the Marriage Settlement of, the property therein comprised, and to authorize the sale and leasing thereof.....	517
Dower, Act to further provide for the release of	233
Application in order to mortgage free from dower where wife disentitled by misconduct	233
Judge's order as to dower where wife a lunatic but not con- fined in any asylum	233
Subsequent orders by Judge.....	234
Application of Act	234
Drainage. <i>See</i> Ontario Drainage.....	10
Dufferin, County of, Act to make provision for the administration of justice in	224
Division Courts, number and limits of.....	224
Ninth Division Court of Wellington.....	225
Seventh Division Court of Simcoe, provision as to suits pend- ing in	225
Eighth Division Court of Simcoe, provision as to suits pend- ing in	225
Pending suits, service of process in	225
Seventh and Eighth Division Courts of Simcoe, hearing of suits in	225
Clerks and Bailiffs, surrender of papers by.....	226
Jurors' books, etc., Clerk of Peace to consolidate.....	226
Writs against goods and lands in, how continued in force....	226
Writs which may be executed by Sheriffs of Simcoe, Grey and Wellington	226
Treasurer of Dufferin, delivery of books to.....	227

INDEX.

vii.

	PAGE
Dufferin, County of, Act to make provision for the administration of justice in— <i>Continued.</i>	
Council, officers and property of provisional corporation to be those of new corporation.....	227
Portion of counties detached to be regarded as junior townships so far as necessary to give effect to provisions for dissolution of counties	227
Chattel mortgages, provisions as to registration of.....	227
Statement for purpose of renewal, filing of.....	228
ECCLES, Francis Hew, Act to authorize the Law Society of Ontario to admit, as a Barrister-at-law	521
Erie and Huron Railway, Act to extend the time for the completion of	411
FEDERAL FIRE INSURANCE COMPANY, of Ontario, Act to incorporate	374
Fees of certain officers and others, Act to regulate.....	223
Fee to Deputy Clerk of Crown on entering action for trial ..	223
Fees to Clerks of County Courts for services under R. S. O., c. 119	223
Fees to gaol surgeons	223
" sheriffs	224
Frontenac, County of, Act to legalize a certain by-law of, and the debentures issued thereunder	296
GAOL SURGEONS. <i>See</i> Fees of certain Officers.....	223
Georgian Bay and Wellington Railway Company, Act respecting..	412
" " " <i>See</i> Port Dover and Lake Huron	431
Grand Junction Railway Company, Act respecting	416
Grand Trunk, Georgian Bay and Lake Erie Railway Company. <i>See</i> Port Dover and Lake Huron.....	431
Guardians for Infants, Act respecting the appointment of	236
Surrogate Court may appoint father or other suitable person guardian	236
Authority of guardian	236
Infant's consent when required.....	236
HAMILTON and Dundas Street Railway Company, Act respecting	418
Hamilton and North-Western Railway Company, Act further to amend the Acts relating to.....	420
Hawkeye Gold and Silver Mining Company, Act respecting.....	379
Hospitals. <i>See</i> Asylums	292
ILLICIT liquor selling, Act to give increased efficiency to the laws against	274
Transfer of license, provisional consent to	275
Fees for licenses	275
Penalties	276

	PAGE
Illicit liquor selling, Act to give increased efficiency to the laws against— <i>Continued.</i>	
Person actually selling liable to penalty as well as occupant of premises	276
Seizure of liquor found on unlicensed premises	276
Return of liquor in default of conviction	277
Canada Temperance Act, 1878, provisions as to	277
" " " Municipal Councils may aid in enforcing	278
" " " Licenses issued under, duties payable for	278
License fund, application of	278
Appeal	278
Inspector's mileage to be paid in certain cases	279
Beer and wine licenses	279
" " " " holder of subject to conditions of tavern license	280
" " " " " not to sell or keep spirits on premises	280
Liquors, testing of, by Inspector	281
Police to enforce provisions of s. 97 of Liquor License Act ..	281
Magistrate, discretion of, as to hard labour	281
Forms	281
Incorporated companies, returns required from, Act respecting...	251
No action for default to be brought after receipt of return by proper officer	251
Penalty, limitation of amount of	251
Return, meaning of	252
Industrial Refuge for Girls. <i>See</i> Central Prison	290
Infants. <i>See</i> Guardians	286
Insectivorous and other Birds beneficial to Agriculture, Act to amend the Act for the protection of	284
Insurances on lives of husbands and parents for benefit of wives and children	235
Insured may direct application of bonuses and profits	235
Application of Act	235
Insurance. <i>See</i> Mutual Fire Insurance	244
Interpleader, Act respecting	222
When issue may be tried in County Court	222
Costs, order for, to be made by Judge of County Court	222
" to be on County Court scale	223
JOINT Stock Companies' Letters Patent Act, Act to extend the powers of companies incorporated under	238
Increase of capital	238
Name of companies, provision as to	238
Additional powers which may be granted by Supplementary Letters Patent	238
Notice of application, Order in Council may regulate	239
Judicature. <i>See</i> Ontario Judicature Act	15
Jurors' Act of 1879, Act to amend	221

	PAGE
KINGSTON, City of, Act to confirm certain assessments of	297
" Township of, and Village of Portsmouth, Act to close part of a certain road allowance between	299
Knox College, Act to amend the Act to incorporate	503
LAKE SCUGOG Marsh Lands Drainage Company. <i>See</i> Scugog..	380
Law Society of Upper Canada, Act to extend the powers of	236
Benchers empowered to disbar or expel in case of misconduct.	237
Barristers' privileges to cease on being disbarred	237
Striking solicitor off the rolls	237
Powers of visitors in certain matters vested in Benchers	237
Lennox and Addington, County of, Act respecting the debt of	300
Letters Patent. <i>See</i> Joint Stock Companies	238
" " <i>See</i> Timber Slide Companies	239
Liquor Selling. <i>See</i> Illicit liquor selling	274
London, City of, Act to authorize the corporation of, to sell certain Lands	303
London East, Act to authorize Village of, to construct and maintain waterworks and to incorporate said Village as a Town	305
London West. <i>See</i> Petersville	350
MARRIED women, discharge of mortgage by. <i>See</i> Registry Act..	228
" " <i>See</i> Dower	233
Mercer Reformatory. <i>See</i> Central Prison	290
Midland Railway of Canada, Act respecting	421
Millpoint, Village of, Act respecting	326
Mortgages and sales of personal property, Act to further amend the Revised Statute respecting	232
Statement to be filed yearly or mortgage invalidated	232
Mortgage, discharge of, by married woman. <i>See</i> Registry Act	228
Municipal Amendment Act of 1881	261
Costs of suits when solicitor paid by salary	261
Court houses, by-laws to raise money for building, assent of electors not required for	261
Sinking fund, investment of	262
Industrial farms, power to compel persons to work on	262
Who liable to be sent to	263
Nuisances and begging, prevention of	263
Chimneys, regulating construction of	263
Telegraph poles, etc., regulating erection of	264
Children, prevention of accidents to	264
Road allowances, protection of municipality and officers in case of mistake in opening	264
Compensation to be made by municipality	264
Drainage by-laws, provisions as to	265
Drain used by another municipality	265
Police and their pay	265
Fire and police force, superannuation and benefit funds for..	266
Negligence, tender of compensation in actions for	266
Debentures on which payment has been made for two years to be valid	267

	PAGE
Municipal Amendment Act of 1881— <i>Continued.</i>	
Debts, by-laws creating, to be registered	267
Notice, publication of	268
Form of notice	268
Registration, manner of	268
Certificate of pending suit, form of	268
Certificate of dismissal of suit	269
Promulgation of by-laws, notice of	269
Market fees, limitation as to sale or lease of	270
Repeal of inconsistent enactments	270
Mutual Fire Insurance Companies, Act to give increased stability to	244
Copies of resolutions, subscription books, and statements of proposed business to be transmitted to Inspector	244
Inquiries to be made by Inspector	244
On receipt of Inspector's certificate, Provincial Treasurer to certify that company entitled to transact business	244
Inspector to keep papers on file	245
Fee to treasurer on delivery of certificate	245
Company to transact business stated in certificate only	245
Guarantee capital, power to raise	245
Limitations as to	246
Not to be withdrawn until premium notes amount to three per cent. of amount at risk	246
Certificate discharging	247
Share capital, power to raise	247
Subscribers to, to become members of company	247
Transfer of shares	247
Forfeiture of shares	248
Premiums payable wholly in cash, when company may insure for	248
Dividends	248
Directors, qualification of	248
By-laws	248
How mutual company may become a stock company	248
Liabilities of former company	249
Books to be kept by company	249
Penalty	250
Change of name	250
Notice of application	250
Fire Insurance Policy Act to apply to Mutual Fire Insurance Companies	250
Short title	251
NECTARINE trees. <i>See</i> Yellows	283
Neebing, Municipality of, Act to organize	326
Niagara Falls. <i>See</i> Clifton	295
OMNIUM Securities Company (Limited). <i>See</i> Anglo-Canadian Mort- gage Company	365
Ontario Drainage Act, Act to amend	10
Assessment a first charge on land	10

INDEX.

xi.

PAGE

Ontario Drainage Act, Act to Amend—*Continued.*

Provision where assessment roll not revised or instalment omitted from roll	11
Lieutenant-Governor in Council may postpone payment of arrears	11
Order in Council to state proportion in which items of assessment are to be increased	11
Increased amount, a first charge on land	11
Correction of errors in roll	11
Corrected amounts to be placed on roll	12
General increase or decrease of amounts in roll may be ordered in certain cases	12
Power and authority of Judge	12
Provisions as to rents charge	12
Orders in Council to be laid before Legislative Assembly	12
Assessment not invalidated by omission to file roll	12

Ontario Judicature Act

An Act to consolidate the Superior Courts; establish a uniform system of pleading and practice; and make further provision for the due Administration of Justice.

Preliminary :

Short Title; Sec. 1.

Commencement of Act; Sec. 2.

Part I.—Constitution of Supreme Court..... 15

Union of existing courts into one Supreme Court; Sec. 3.

Existing Court of Appeal continued; Sec. 4.

Oath of office; Sec. 5.

Saving of rights and obligations of existing Judges; Sec. 6.

Provision for former extraordinary duties of Judges; Sec. 7.

Seal of Supreme Court; Sec. 8.

Part II.—Jurisdiction..... 17

Jurisdiction of High Court of Justice; Sec. 9.

Transfer of pending business; Sec. 10.

Provision as to pending business; Sec. 11.

Rules as to exercise of jurisdiction; Sec. 12.

Jurisdiction of Court of Appeal; Sec. 13.

On appeal from High Court, Court of Appeal to have all powers of High Court; Sec. 14.

Jurisdiction subject to rules, etc.; Sec. 15.

Law and Equity to be concurrently administered; Sec. 16.

Rules of Law declared upon certain points; Sec. 17.

Part III.—Sittings and Distribution of Business..... 24

Abolition of terms; Sec. 18.

Sittings of Courts; Sec. 19.

Vacations; Sec. 20.

Sittings in vacation; Sec. 21.

Ontario Judicature Act—*Continued.*

- Commissions of Assize and other Commissions ; Sec. 22.
- Rules of Court to provide for distribution of business ;
Sec. 23.
- Assignment of pending business to the several divisions
of the High Court ; Sec. 24.
- Documents by which cause commenced to be marked
with name of division to which assigned ; Sec. 25.
- Power of transfer ; Sec. 26.
- Rota of Judges for election petitions ; Sec. 27.
- Business to be disposed of by one Judge so far as practi-
cable ; Sec. 28.
- Divisional Courts of the High Court ; Sec. 29.
- Constitution of Divisional Courts ; Sec. 30.
- Judges to take part in business of any division ; Sec. 31.
- Orders not subject to appeal ; Sec. 32.
- Limitation of appeal where amount involved does not
exceed \$200 ; Sec. 33.
- “ “ where amount involved does not
exceed \$500 ; Sec. 34.
- Appeals from interlocutory orders ; Sec. 35.
- Discharging orders made by a single Judge ; Sec. 36.
- Appeal from decision of a Judge in Court ; Sec. 37.
- No appeal unless proper notice and security given ; Sec. 38.
- Appeals from High Court ; Sec. 39.
- Provision for absence or vacancy in office of Judge ; Sec. 40.
- Power of a single Judge in Court of Appeal ; Sec. 41.
- Divisional Courts of Court of Appeal ; Sec. 42.
- Limitation of appeal to Supreme Court of Canada ; Sec. 43.

Part IV.—Trial and Procedure 30

- Judgment not to be given for party unless entitled on
facts proved ; Sec. 44.
- Modes of trial ; Sec. 45.
- Sittings for trial of non-jury cases ; Sec. 46.
- References and assessors ; Sec. 47.
- Power to direct trials before referees ; Sec. 48.
- Power of referees and effect of their findings ; Sec. 49.
- Powers of Courts with respect to proceedings before ref-
erees ; Sec. 50.
- Seals of Deputy-Registrars and Deputy-Clerks of the
Crown ; Sec. 51.
- Provision for saving of existing procedure where not in-
consistent with Act or Rules of Court ; Sec. 52.
- Rules of Court ; Sec. 53.
- Who may make rules ; Sec. 54.
- Governor in Council may authorize certain Judges
to make Rules ; Sec. 55.
- Council of Judges to consider procedure and administra-
tion of justice ; Sec. 56.

Ontario Judicature Act—*Continued.*

Statutes relating to existing courts to be read as applying to Courts under this Act; Sec. 57.

Part V.—Officers and Offices..... 35

Officers of existing Courts to be attached to their respective divisions of the High Court; Sec. 58.

Distribution of business among officers; Sec. 59.

Existing securities continued; Sec. 60.

Oath of officers; Sec. 61.

Authority of certain officers preserved; Sec. 62.

Official referees; Sec. 63.

Local Masters, Deputy Registrars, and Deputy Clerks of the Crown; Sec. 64.

Surrogate and County Court Clerks not to draw or advise on certain documents; Sec. 65.

Official guardian *ad litem*; Sec. 66.

Return; Sec. 67.

Provision as to property vested in accountant; Sec. 68.

Expenses of accountant's office; Sec. 69.

Inspector of sheriff's and other offices; Sec. 70.

Inquiries by Inspector; Sec. 71.

Books, etc., to be produced for inspection; Sec. 72.

Powers of Commissioners to take affidavits; Sec. 73.

Solicitors and attorneys; Sec. 74.

Part VI.—County Courts and Judges 45

Qualification of County Court Judges; Sec. 75.

Local Judges of the High Court; Sec. 76.

Powers of County and Division Courts; Sec. 77.

Counter-claims in County and Division Courts and transfers therefrom; Sec. 78.

Surrogate Court fees of Judges; Sec. 79.

Rules of Law to apply to Inferior Courts; Sec. 80.

Part VII.—Miscellaneous Provisions..... 47

Orders in Council as to allowances and salaries, subject to ratification by Legislative Assembly; Sec. 81.

Transfer of books and papers; Sec. 82.

Compelling attendance of witnesses; Sec. 83.

Form of Warrant; Sec. 84.

Saving as to circuits, etc.; Sec. 85.

Judgment by Judge who resigns or is transferred to another Court after case heard; Sec. 86.

Act not to apply to certain matters; Sec. 87.

Justices of the Peace in Nipissing, qualification of; Sec. 88.

Inspection, etc., of Court Houses; Sec. 89.

Repeal; Sec. 90.

Interpretation of terms; Sec. 91.

	PAGE
Ontario Judicature Act— <i>Continued.</i>	
Schedule—Rules of Court	51
Order 1.—Form and commencement of action	51
Order 2.—Writ of Summons and Procedure, etc.	51
Order 3.—Indorsements of Claim, etc.	52
Order 4.—Disclosure by Solicitors and Plaintiffs	55
Order 5.—Renewal of Writ	56
Order 6.—Service of Writ of Summons	57
1. Mode of service.	
2. On particular defendants.	
3. On partners and other bodies.	
4. In particular actions.	
5. Generally.	
Order 7.—Service out of Ontario	59
Order 8.—Appearance, etc.	61
Order 9.—Default of appearance	63
Order 10.—Leave to sign Judgment where Writ specially indorsed	66
Order 11.—Application for Account, etc., where Writ indorsed under Order 3, Rule 6	67
Order 12.—Parties	68
Order 13.—Joinder of Causes of Action	73
Order 14.—Actions by and against lunatics and persons of unsound mind	74
Order 15.—Pleading generally	74
Order 16.—Pleading matters arising pending the action	78
Order 17.—Statement of Claim	79
Order 18.—Defence	81
Order 19.—Discontinuance	82
Order 20.—Reply and subsequent Pleadings	83
Order 21.—Close of Pleadings	83
Order 22.—Issues	84
Order 23.—Amendment of Pleadings	84
Order 24.—Demurrer	85
Order 25.—Default of Pleading	88
Order 26.—Payment into Court in satisfaction	90
Order 27.—Discovery and Inspection	90
Order 28.—Admissions	94
Order 29.—Inquiries and Accounts	94
Order 30.—Questions of Law	96
Order 31.—Trial	97
Order 32.—Evidence generally	101
Order 33.—Commissions to examine witnesses	102
Order 34.—Evidence by affidavit	105
Order 35.—Motion for new trial in Jury Cases	106
Order 36.—Motion for Judgment	107
Order 37.—Entry of Judgment	109
Order 38.—Execution	111
Order 39.—Writs of <i>Fieri Facias</i> , etc.	115
Order 40.—Attachment of the Person	115
Order 41.—Attachment of Debts	115

INDEX.

xv.

Ontario Judicature Act—Continued.

PAGE

Order 42.—Writ of Possession (Lands).....	118
Order 43.—Writ of Delivery (Chattels)	118
Order 44.—Change of Parties by Death, etc.....	119
Order 45.—Transfers and Consolidation of Actions	120
Order 46.—Interlocutory Orders as to Mandamus, Injunctions, or Interim preservation of property, etc.	121
Order 47.—Motions and other applications.....	122
Order 48.—Applications at Chambers	123
Order 49.—Officers and Offices	124
Order 50.—Costs.....	127
Order 51.—Notices and Paper, etc.....	132
Order 52.—Time.....	133
Order 53.—Affidavits	134
Order 54.—Divisional and other Courts	135
Order 55.—Effect of Non-compliance and Errors	136
Order 56.—Accountant's Office.....	136
Order 57.—Sittings and Vacations	137
Order 58.—Exceptions from the Rules.....	138
Order 59.—Forms	138
Order 60.—County Courts.....	138
Order 61.—Interpretation	139
Order 62.—Pending business.....	139
Appendices to the Rules.....	140
A. Part I.—Writs of Summons, etc.....	140
Part II.—Section 1—Money claims, no special indorsement	142
“ 2—Indorsement for costs, etc....	144
“ 3—Damages and other claims	144
“ 4—Special indorsement under Order 3, Rule 4	147
“ 5—Indorsements of character of parties	148
“ 6—General Indorsements	149
B. Notices, etc.....	151
C. Affidavits	160
D. Pleadings	163
E. Præcipes	182
F. Subpoenas, etc., for examination of witnesses.....	188
G. Certiorari and prohibition	191
H. Orders	193
I. Forms of Judgment	208
J. Writs of Execution	217
Ontario Sault Ste. Marie Railway Company, Act to incorporate	424
PARKDALE, Act respecting water and gas works at	330
Partnerships. <i>See</i> Co-partnerships	232
Peach trees. <i>See</i> Yellowes	283
Petersville, Village of, Act to change the name of to London West..	350
Phoenix Mutual Fire Insurance Company of Ontario, Act respecting	381

	PAGE
Port Dover and Lake Huron, Stratford and Huron, and Georgian Bay and Wellington Railway Companies, Act amalgamating, as the Grand Trunk, Georgian Bay, and Lake Erie Railway Company	431
Port Rowan and Lake Shore Railway Company, Act respecting	449
Port Royal and Detroit River Railway Company, Act to incorporate	452
Portsmouth, Village of. <i>See</i> Kingston.....	299
Prince Edward County Railway Company, Act respecting	465
Public lands, Timber on, Act respecting sale and management of..	9
Payment to municipalities for timber cut on road allowances	9
Application of money by municipality.....	10
Right of junior townships to percentage	10
 RAILWAYS, Chatham and Charing Cross.....	 393
Credit Valley	404
Erie and Huron	411
Georgian Bay and Wellington	412
"	431
Grand Junction	416
Grand Trunk, Georgian Bay and Lake Erie	431
Hamilton and Dundas Street.....	418
Hamilton and North-Western	420
Midland	421
Ontario Sault Ste. Marie.....	424
Port Dover and Lake Huron	431
Port Rowan and Lake Shore.....	449
Port Royal and Detroit River	452
Prince Edward County	465
St. Catharines and Niagara Central	467
Stratford and Huron	431
Toronto, Grey and Bruce	481
Toronto and Nipissing Eastern Extension	486
Toronto and Ottawa	487
Trent Valley.....	488
Weston and Duffin's Creek.....	489
Whitby, Port Perry and Lindsay	498
Yorkville Loop Line	500
Railways, aid to, Act respecting	257
Short title	257
Railways aided.....	257
Payment in aid, how computed	258
Conditions of aid.....	258
Railway from Muskoka to Sault Ste. Marie, aid to	259
Railway employees and the public, Act to make provision for the safety of	252
Short Title	253
Application of Act	253
Packing, meaning of	253
Bridges, provisions as to.....	253
Accident, special provisions against	254

	PAGE
Railway employees and the public, Act to make provision for the safety of— <i>Continued.</i>	
Company neglecting provisions of Act to be liable for injury occasioned thereby	255
When not liable for default	256
Limit of compensation for injury	257
Limitation of actions	257
Reformatories. <i>See</i> Asylums	292
Registry Act, Act to amend	228
Returns. <i>See</i> Incorporated Companies	251
Rivers, streams and creeks, Act for protecting the public interest in.	229
All persons entitled to use rivers for floating down timber and saw-logs	229
Right to use when improvements have been made.....	229
Whether land patented or not	230
Tolls, Lieutenant-Governor in Council may fix amount to be charged for	230
Application of provisions of Act	230
Tolls, lien for, by person making improvements	230
Certain rights not affected.....	231
River banks, right to use	231
Rules regulating transmission of timber, person entitled to tolls may make	231
Pending suits, costs of	231
Roman Catholic Bishops of Toronto and Kingston, in Canada, in each Diocese, Act to amend the Act to incorporate.....	509
SARNIA Gas Company, Act to change the name of, to confirm a by-law of the town of Sarnia, and to extend the powers of said company	384
School Law, Act for further improving.....	285
Children between the age of 7 and 13 required to attend school	285
Time of attendance.....	285
Duty of persons with whom any child under 13 resides	285
Exceptions	285
Officer to enforce law, appointment of	285
Notice before taking proceedings for neglect	286
Proof of age.....	286
Assessors to enter on roll children over 16 and under 21, and between 7 and 13.....	286
Occupant primarily liable for school rate.....	287
Aid to County Model Schools.....	288
Unauthorized text book not to be substituted for one authorized without leave	288
Certain contracts by school trustees to be void	288
Scugog Marsh Lands Drainage Company, Act to amend the Act incorporating	380
Sheriffs. <i>See</i> Fees of certain officers	223
Simcoe, County of, Act respecting the debenture debt of	359

	PAGE
Snow fences, Act respecting	273
Fences, owners or occupants may be required to remove or alter	273
Power in case of refusal	274
St. Andrew's Church, Williamstown, Act to authorize the trustees of to sell certain land	505
St. Catharines and Niagara Central Railway Company, Act to incor- porate	467
St. John's Church, in the township of London, Act to provide for the sale of the rectory house and lands belonging to	506
St. Paul's Church, in the town of Woodstock, Act respecting	508
St. Thomas, City of, Act to incorporate	351
Stratford and Huron Railway. <i>See</i> Port Dover and Lake Huron ..	431
Superior Courts. <i>See</i> Ontario Judicature Act	15
Supplies for Civil Government for 1881	3
Supreme Court of Judicature. <i>See</i> Ontario Judicature Act	15
 TIMBER Slide Companies, Act for the incorporation of by Letters Patent and for the regulation of	239
Short title	239
Powers which may be granted	239
When Letters Patent may issue	240
Report to be transmitted to Provincial Secretary by applicants ..	240
Rate of dividend may be limited in Letters Patent	240
Limitation of company's existence	240
Particulars of notice in <i>Gazette</i>	240
Contents of report	240
Report to be considered by Commissioner of Public Works ..	241
By-laws to regulate transmission of timber	241
Copies of proposed by-laws to be annexed to reports of company	241
When by-law to come in force	241
Restrictions as to by-laws	241
Company not to interfere with property without leave	241
Consent to formation of company when required	241
Recovery of payments made for stockholders	242
On expiration of company's existence property to vest in Her Majesty	242
Company's existence to continue for purpose of winding up ..	242
Distribution of capital and profits	242
Letters Patent may limit term of existence of certain com- panies	243
Existence of company may be extended	243
Repeal	243
Timber, transmission of. <i>See</i> Rivers	229
Toronto Baptist College, Act to incorporate	510
Toronto Gravel Road and Concrete Company, Act to amend the Act incorporating	385
Toronto, Grey and Bruce Railway Company, Act to amend the several Acts relating to	481

	PAGE
Toronto and Nipissing Eastern Extension Railway Company, Act respecting	486
Toronto and Ottawa Railway Company, Act respecting	487
Trent Valley Railway Company, Act to amend the Acts respecting ..	488
UNION Church at Port Colborne, Act to authorize the trustees of, to sell certain lands	513
University and Colleges at Toronto, Act respecting	289
Convocation, who to be members of	289
Register of graduates	289
Convocation, term of office of chairman	289
Election of Chancellor and members of Senate, provisions as to ..	289
Vacancies in Senate	290
Investments to be taken in name of Bursar	290
VICTORIA Rolling Stock Company of Ontario, Act to amend the Charter of incorporation of	389
WATERLOO County Mutual Fire Insurance Company of Ontario, Act respecting	391
Weston and Duffin's Creek Railway, Act to incorporate	489
Whitby, Port Perry and Lindsay Railway Company, Act respecting ..	498
Windsor, town of, Act to consolidate the debt of	362
Wives and children, insurances for benefit of. <i>See Insurance</i>	235
Woodstock, Act to vest certain lands in the town of, in trustees and to authorize a sale of the same	514
YELLOWS, Act to prevent the spread of, among Peach, Nectarine and other trees	283
No infected trees to be kept or fruit sold	283
Inspector, petition for appointment of	283
Meeting of Council to be called on receipt of petition ...	283
Duty of Inspector	283
On special complaint	283
Notice to owner of trees	284
Penalty	284
Recovery of penalty	284
Yorkville Loop Line Railway Company, Act to amend the Acts respecting	500

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